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COMPENSATION AND DIC PROPOSALS

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMPENSATION, PENSION AND INSURANCE

OF THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

April 9, 1987

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COMPENSATION AND DIC PROPOSALS

THURSDAY, APRIL 9, 1987

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:07 a.m., in room 334, Cannon House Office Building, the Honorable Douglas Applegate (chairman of the subcommittee) presiding.

Present: Representatives Applegate, Penny, Evans, McEwen, Bilirakis, and Smith of New Hampshire.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. APPLEGATE. Good morning, everybody. I want to welcome you all to the first meeting of the Subcommittee on Compensation, Pension and Insurance for the 100th Congress.

We are meeting today to take testimony on a couple of proposals affecting the VA's Service-connected Disability Compensation and Dependency and Indemnity Compensation Programs.

In his fiscal year 1988 budget, the President recommended a 3.5 percent cost of living increase in compensation and DIC benefits. Our full committee concurred in this proposal and it was included as one of our recommendations to the budget committee. The committee did not agree, however, with the President's recommendation that the compensation and DIC COLAs be indexed to the annual change in the Consumer Price Index in the same manner as Social Security and the VA's Nonservice-connected Disability Programs.

In fact, the House Veterans' Affairs Committee flatly rejected that idea as not being in the best interest of our service-disabled veterans. Although indexing would eliminate the need for annual legislative action, it also would take away one of the committee's most effective tools through which refinements to the program can be made.

The budget reported by the budget committee includes funds for a 4.1 percent COLA in compensation and DIC. This is the amount currently projected as being necessary based on later estimates of what the change in the CPI will be to offset the eroding effects of inflation of these benefits.

Of course, the subcommittee and the full committee will take whatever action is necessary to enact legislation that reflects the final change in the CPI, which, of course, we will not know until a later time.

I believe it is extremely important for the committee to retain jurisdiction of future compensation COLAs. For this reason, I have introduced H.R. 1084 to provide the necessary COLA.

Witnesses here this morning will be discussing this bill as well as H.R. 1427, which is a bill that would make a very minor program improvement for surviving spouses of certain veterans who are eligible to receive death benefits at DIC rates, simply by reducing the length of the requisite marriage to the veteran from 2 years to 1.

Finally, we will hear testimony on two measures, H.R. 1543 and H.R. 1544, that would improve benefits for former prisoners of war. In connection with this, I am very pleased to be holding hearings on the measures for the former POWs because I am sure that you are all aware that today has been formally designated as Former Prisoner of War Recognition Day. The bill was passed by the Congress March 31st, and it was signed by the President yesterday.

I am extremely proud to have introduced this legislation along with my good friend and colleague from Ohio, Bob McEwen, as well as Sonny Montgomery, Gerry Solomon, John Paul Hammerschmidt and others, and am proud to have assisted in the passage of the legislation to commemorate this important date. I know of no other group of Americans who are more deserving of this type of recognition and commendation than those who suffered the terrible consequences of being held prisoners of war.

I would like to congratulate the representatives of the former prisoners of war who are with us today.

At this time I would like to recognize my very distinguished colleague and friend, the vice chairman of the Subcommittee on Compensation, Pension and Insurance, Mr. Bob McEwen. Bob, I can only say that I am looking forward to working with you during the 100th Congress, a very historic Congress. I think we are going to have a very active schedule and I think we are going to see a lot of pluses for the veterans when we finally terminate this session.

It is good to have you back aboard and always good to work with you.

OPENING STATEMENT OF HON. BOB MCEWEN

Mr. MCEWEN. Thank you, Mr. Chairman. I certainly appreciate those kind remarks and extend them as well. Being vice chairman of the subcommittee is an honor. We enjoyed our working relationsip in the 98th Congress, and now once again in the 100th Congress to be able to work cooperatively with you is a pleasure that I relish very sincerely.

Let me say that I join in a warm welcome to our witnesses this morning as we consider legislation with respect to compensation for service-connected veterans, their dependents and their survivors.

Mr. Chairman, I am sure that you and I are in complete agreement that compensation is a matter of the first priority with our subcommittee and the full committee as well as the Congress. It is, therefore, completely appropriate that this initial hearing of our subcommittee will focus on this issue.

Our committee has already spoken on the President's proposal for a 3.5 percent increase in compensation. We have also spoken

with respect to indexing, and I agree with your conclusions with respect to these two proposals.

Mr. Chairman, we also will be considering today minor amendments to DIC in two measures concerning former prisoners of war. It is my hope that the subcommittee can move proposals in this regard forward to the full committee and to the Floor of the House rapidly.

Finally, Mr. Chairman, I too am delighted to be working with you in a cooperative spirit with respect to the business of our subcommittee. I am honored to be able to serve in this capacity, a very coveted position because you are singularly respected as one of the most capable and amiable chairmen of the subcommittees on our full committee, and it is a position that I covet very much.

Let me quickly make an observation about what I will do for the next 40 minutes. We in the Congress, and now the rest of the country, are much more aware of a select permanent committee that exists in the Congress that used to operate solely in secret and now no longer operates as such, but it is the Permanent Select Committee on Intelligence that oversees the activities of the Central Intelligence Agency and certainly any covert or clandestine activities of the Government when they arise.

We have a special meeting that was called late last evening. It meets today at 9 a.m. with the Directors of the Central Intelligence Agency and others. It is expected to last for about 40 to 45 minutes and then it will adjourn. It is expected that members of those committees are there, and they begin promptly and end promptly. I hope that all of you here can please accept my apologies as I will disappear and return as rapidly as possible, but it is essential that I be there for this encounter. It is not a briefing, not a hearing, it is an encounter, and it is essential that all of us attend.

So with that understanding, I will return shortly, and thank you very much, Mr. Chairman.

Mr. APPLEGATE. Thank you very much, Bob. I appreciate those remarks and will look forward to you coming back. Take care of our intelligence.

I would also like to recognize that present this morning is Mr. Mike Bilirakis of Florida and Mr. Lane Evans of Illinois.

I would also like to note before we begin today that there will be some statements without oral testimony that will be given by the Blinded Veterans, and the National Military Wives Association.

[See pp. 160 and 161.]

With that out of the way, we will begin the testimony, and we will recognize Mr. John Vogel, Chief Benefits Director of the Veterans Administration.

John, it is always good to have you before the committee.

STATEMENT OF R. J. VOGEL, CHIEF BENEFITS DIRECTOR, VETERANS ADMINISTRATION; ACCOMPANIED BY DR. HOWARD COHN, ASSOCIATE CHIEF MEDICAL DIRECTOR FOR CLINICAL AFFAIRS, AND DR. ROBERT RHINE, ASSOCIATE CHIEF MEDICAL DIRECTOR FOR DENTISTRY

Mr. VOGEL. Mr. Chairman, I have submitted a full statement for the record. I have a brief summary statement I would like to read.

Mr. APPLEGATE. Without objection, it will be made a part of the record, John.

Mr. VOGEL. Accompanying me, Mr. Chairman, to my left is Dr. Howard Cohn, the Associate Chief Medical Director for Clinical Affairs; to my right, Dr. Rhine, the Associate Chief Medical Director for Dentistry.

I am pleased to be here this morning to present the views of the Veterans Administration on the following bills introduced in the 100th Congress, each of which would amend Title 38 of the United States Code. H.R. 1084 would provide cost of living increases in rates of compensation and DIC; H.R. 1427 would make minor adjustments to DIC, and H.R. 1543 and H.R. 1544 would revise benefits eligibility for former prisoners of war. As you are aware, the VA has reported to the committee on H.R. 1084.

I am also pleased to discuss Title 1 of the Administration's draft bill submitted to you on March 31st, which would authorize automatic annual increases in the rates of disability compensation for veterans and DIC for surviving spouses and children based on the CPI.

H.R. 1084, if enacted, would authorize 3.5 percent cost-of-living increases in the statutory rates for these benefits.

The proposed rate of adjustment is, no doubt, designed to assure that beneficiaries keep abreast of the steadily increasing cost of living. Title 1 of our draft bill, which would index compensation and pension COLAs, is designed for the same purpose, though the approach differs. Therefore, I will discuss these measures together. Both propose an effective date of December 1, 1987 for the next cost-of-living increase.

The administration strongly supports COLAs based on actual increases in the cost of living. However, we believe this best can be done by legislation which would provide for an automatic annual increase in compensation rates indexed to the periodic consumer price index increases, as is the case in pension and a number of other governmental benefits. Tying compensation and DIC rates to the CPI would assure that these beneficiaries would receive their full increases commensurate with inflation in a timely fashion.

Concerning DIC payments to surviving spouses, H.R. 1427 would make one substantive change. Section 410(b)(1) presently requires that for this benefit to be payable to the surviving spouse, he or she must have been married to the veteran for at least 2 years preceding the veteran's death. This is a bill to change the marriage requirements so as to qualify a surviving spouse who was married to the veteran for 1 year or more. We don't support that substantive provision of the bill.

H.R. 1543 and H.R. 1544 would enlarge veterans' benefits eligibility for former prisoners of war. The first would add spastic colon to the list of those medical conditions for which service connection may be presumed if manifested to a compensable degree at any time following service by veterans who were POWs for at least 30 days.

H.R. 1544 would add the conditions of peripheral neuropathy due to trauma, and peptic or duodenal ulcers. These bills would reduce from 6 months to 90 days the period of time that a former prisoner of war would have had to have been held captive to qualify for VA-

furnished treatment for a dental condition or a disability. Both those bills have a proposed effective date of October 1st.

Initially I want to make it clear that an expansion of the list of presumptive diseases as now proposed would only have a minimal impact on the VA's current adjudicated practices. There are two reasons for this. First, in the case of POWs, the conditions identified in the bills ordinarily would become manifest and require treatment upon repatriation or shortly thereafter. So typically, service connection can be and is recognized on a direct basis following a review of available medical evidence.

Second, VA policy is to treat claims of former POWs in a liberal manner, giving special consideration to the hardships and privations they have endured, and of course resolving a reasonable date in their favor. We thus believe there is no need for a statutory presumption for disabilities in addition those already listed in Section 312(b) of Title 38.

The third disorder proposed to be added to the presumptive disease list was peripheral neuropathy due to trauma. Our concern is that such disability would likely have been identified in or shortly after service and that a presumption is unnecessary. We recognize that the Congress enacted a presumption for traumatic arthritis last year, so there is precedent established for this type of amendment.

The bill's proposed amendment relating to dental treatment for former POWs has questionable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned for at least 6 months. We believe that the qualifying period of internment now proposed, that is, 90 days, may not be scientifically supportable. We think it highly unlikely that even in circumstances of incarceration, dental or oral pathology can develop and could become irreversible in a period of 90 days. Although our dental professionals acknowledge such development is conceivable, we essentially believe no scientific case has been made for the statutory change, nor has a mandate emerged from the former POW Advisory Committee in favor of this amendment.

Costs associated with the enactment of legislation, with the exception of H.R. 1084, would not be significant.

Mr. Chairman, I would be pleased to answer any questions you or members of the subcommittee may have.

[The prepared statement of Mr. Vogel appears at p. 45.]

Mr. APPLEGATE. Thank you very much, John. I think you have covered pretty much everything in your statement, left that needs to be said.

I have a question here which I think probably is pretty much answered, but does the projected change in the CPI upon which the COLA would be based look pretty solid at 3½ percent? And if it is not, what is the current projection.

Mr. VOGEL. The indications are that it could be something in excess of 4 percent. The Administration has consistently supported cost of living adjustments, if the cost of living warrants it. If the rate of increase in compensation should be more or less, we would certainly consider it and make a proposal commensurate with what the erosion of earning powers has done to our compensation benefits.

Mr. APPLEGATE. What do you think about the Budget Committee's 4.1 percent?

Mr. VOGEL. Mr. Chairman, we have not had a chance to look at that and consider it. We would be pleased to do so, however. It was my first indication that that developed just a few days ago and we have not had a chance to staff it.

Mr. APPLEGATE. And I think one other thing, John. It is my understanding that the POW Advisory Committee will be issuing a report soon, I guess, as required by law. Can you tell me how soon that report—that is on the POWs—do you have any idea as to when the——

Mr. VOGEL. My recollection is the due date is July the 1st. Dr. Cohn is an advisor to that Advisory Committee, if you will, for the Chief Medical Director.

Dr. COHN. Good morning, Mr. Chairman. It is a pleasure to see you again and be here at this table.

The Advisory Committee on Former POWs to the Administration met last on March 3 and 4, and they're presently preparing the summary and recommendations to meet the deadline for the report to Congress. So that is in process and underway.

Mr. APPLEGATE. Thank you very much.

Mr. Bilirakis, do you have anything?

Mr. BILIRAKIS. Thank you, Mr. Chairman. I have an opening statement, sir, and I would ask unanimous consent that it be inserted into the record.

[The prepared statement of Congressman Bilirakis appears at p. 55.]

Mr. APPLEGATE. Yes, it will be.

Mr. BILIRAKIS. I would like to say, though, orally that I am just really pleased and delighted to serve on this subcommittee. I requested to come to this subcommittee, because I believe so very much in the work that you are doing, and would like to be a part of it.

Mr. BILIRAKIS. Mr. Vogel, is full prisoner of war status given to POWs who escaped into friendly hands, such as the French Underground in World War II?

Mr. VOGEL. The determinations with respect to them is made on a case-by-case basis. The designation of prisoner of war held by hostile elements is made by the respective service departments of the Department of Defense. Those who were held in other circumstances, save those that were specifically designated; i.e., those individuals held by Iran some years ago——

Mr. BILIRAKIS. By whom?

Mr. VOGEL [Continuing]. By Iran, the Government of Iran.

The determinations, as I understand them, are made on a case-by-case basis.

Mr. BILIRAKIS. Well, do not we ask for problems every time we say we are going to do something on a case-by-case basis? The person who may have escaped and is in friendly hands, obviously, may not be suffering quite as much as a person in a POW camp; then again, they may be, too.

How about servicemen who were never captured by the enemy but who lived with underground guerilla forces? Are they eligible for POW benefits, or is that on a case-by-case basis, too?

Mr. VOGEL. I do not believe they are considered prisoners of war, first of all.

Mr. BILIRAKIS. Do you have any opinion on those? I appreciate the fact that we are always concerned about opening up the door, and Pandora's box and that sort of thing, but do you have any opinion?

Mr. VOGEL. I think that any individual who in the service of his or her country is held by—whether they be clearly our enemies, as the case of in World War II, say the Axis powers—or those may be held involuntarily by our ostensible allies should be afforded the rights and privileges of prisoners of war if the manner in which they are held warrants it.

I do not think it would make a whole lot of sense to an individual so held—he was deprived of not only his freedom but perhaps his health and welfare—whether or not the organization that held them was ostensibly friendly or clearly an enemy.

Mr. BILIRAKIS. Well, I guess we can get into that later if we should decide to initiate legislation towards that end.

Mr. Vogel, a POW who does not have a disability, what sort of medical care does that POW—what sort of benefits does that POW have at our medical centers?

Mr. VOGEL. They then enjoy priority for treatment. I would like Dr. Cohn to answer that, if he could, Mr. Bilirakis.

Mr. BILIRAKIS. Okay.

Dr. COHN. Apart from the matter of dental care, they are specifically eligible as former POW's for hospital, nursing home, and outpatient medical care, and they may present with any complaint that they have. In fact, the Advisory Committee has often been complimentary of the VA in terms of the quality of care that former POWs have been provided under the legislation.

Mr. BILIRAKIS. Well, I guess I understand that they do have the right to that care, but I am going now to the priority, if you will. I guess I have got to be careful with my use of words because I do not want to start a war—but a person who has a disability compensation, let's say it might be service-connected but not necessarily war-connected, battle-connected, if you will. Does that person who may have been riding a motorcycle, maybe drunk, who got in an accident while in the military, and who has a service-connected disability; does that person have priority in our Vet medical centers as against the POW and former POW?

Dr. COHN. In general, former POWs enjoy the highest priority in terms of eligibility for outpatient care, second only to service-connected veterans.

Mr. BILIRAKIS. Second only to service-connected. So the answer to my question is yes; the type of person that I have described would have a service-connected disability even thought it had nothing to do with battle, would have a higher priority than an ex-POW.

Dr. COHN. I am not an eligibility determination person, sir. Perhaps my colleague to my right would be better able to answer.

Mr. VOGEL. They are both considered Category A veterans for the purpose of medical treatment, as I understand it. They would enjoy coequal eligibility for medical treatment.

Mr. BILIRAKIS. Okay. To finish up, in my opening statement I referred to legislation that I have introduced regarding a widow of a

veteran being able to marry after age 55 and still being able to retain the financial benefits that current law would require her to lose if she were to marry. The civil service survivor benefit plan and the military survivor benefit plan have been amended in recent years to allow this, but we do not allow it, insofar as our military widows are concerned. So I am sort of placing you on notice that that is coming down the pike.

I have nothing further, Mr. Chairman. Thank you.

Mr. APPLEGATE. Thank you very much, Mike.

Let me say that I am very delighted to have you aboard on the subcommittee. You have been a very valued member of the House Veterans' Affairs Committee, and one that is very interested and active in pursuing official legislation for the good of the veterans of this country; and that says so much, and of course you are here all the time, too. That is great. It is good to have you on here.

Following up a little bit, too, on what you were saying, and it may help to answer part and I am happy to see that the Veterans Administration is in support of it. It has to do with H.R. 1543, and we can have that incorporated into the other bill, but it has to do in changing the definition of a person who was held prisoner.

In the statutes we have, one of the eligibility requirements is that a person must be detained by an enemy government or its agents or a hostile force during a period of war. And there is a very specific case having to do with a group of Americans who were captured by the Soviets in Europe, and I think that affects about 200 of them. I think it is an unprecedented situation.

Mr. BILIRAKIS. Are they covered now under the terminology——

Mr. APPLEGATE. No, they are not covered now.

Mr. BILIRAKIS. And Mr. Vogel, you do confirm that there are approximately 200 in that category?

Mr. VOGEL. I don't know the number, sir.

Mr. BILIRAKIS. One of the questions that I had that I just did not get to——

Mr. VOGEL. I do not know the numbers, sir, but whatever the number—we support that change, which will provide POW status, if you would, to those individuals, if we found that the conditions of their detention were comparable to other POW experiences.

Mr. APPLEGATE. I think it is a good change, and it is a little different type of a situation. While the Soviets at that time were an ally, they did not treat our prisoners as allies.

Dr. Cohn, let me just ask you one quick question here. Can you give us a preliminary position of the POW Advisory Committee in relationship to the two POW pieces of legislation that we have before us today?

Dr. COHN. I can try, Mr. Applegate. Let me begin this way. I would quote Dr. Woodward who is the medical member on the Advisory Committee, and you have had testimony from Dr. Woodward on a previous occasion; the former chairman of the Department of Medicine at the University of Maryland School of Medicine; former VA distinguished physician, et cetera.

This may not be an exact quote of Dr. Woodward's, but it is a very close paraphrasing, I think. Dr. Woodward felt that all three indications were not supportable. That is to say the current language. I think that I would be paraphrasing him accurately.

Now that is not to say that that is the universal thinking of the Advisory Committee, and in that respect, General Flynn, the chairman of the committee that you know, was most interested in having a meeting take place between Dr. Woodward and myself to discuss that language; and such meeting is planned for next week, next Tuesday, I believe.

To my knowledge, that is the current status in regard to your question.

Mr. APPLEGATE. Is that the committee's, or is that the one individual who was the doctor? Is he the only M.D. that is on there?

Dr. COHN. He is the, he is one of the two M.D.s that are full members of the committee. Of course, I am an ex officio M.D. member, if you will, representing the Chief Medical Director.

So to answer your question, that is the view of the Medical Subcommittee, as it is more formally referred to. I would not, again, want to say to you that is the opinion of the full committee. I think what they are doing is awaiting the outcome of the meeting that I alluded to between myself and Dr. Woodward before they would take an official written stance on those particular diseases or entities.

Mr. APPLEGATE. You say there are three that they tend to feel is not supportable. Did they name their——

Dr. COHN. They are the three that are mentioned in our current two pieces of legislation, so far as I know.

But I want to make it clear that the committee, to my knowledge, has not reached any final assessment on those.

Mr. APPLEGATE. Okay, you have the peripheral neuropathy and spastic colon and peptic ulcer——

Dr. COHN. Yes, sir.

Mr. APPLEGATE. But did they make mention about the dental, reduction of the dental time period?

Dr. COHN. At the Advisory Committee, generally we do not get into the details of dental issues. There is no dental representative on that. Maybe Dr. Rhine would like to pursue that.

Dr. RHINE. The POW committee has not to my knowledge expressed any views or made any recommendations on these dental issues.

Mr. APPLEGATE. When they make these, although it is a preliminary thing, they make these determinations, what kind of—how do they arrive at this? I mean, we are talking about a time period that is long past. Is there some experience that they can draw from by saying that "We can't support this because" or is it just their basic medical knowledge without having the applicable experiences themselves?

I have talked with former prisoners of war who could argue that point very adequately on the other side, and other medical people.

Dr. COHN. The best way that I can answer your question, sir, is to say that what comes forward from the committee I think in all fairness and accuracy represents an amalgamation of a variety of views, including views of the American ex-POWs Organization, Incorporated; including views of physician former POWs, including views of members of the committee; including our own views as ex-officio members or advisers to the committee.

It is an amalgamation. It is also based on whatever literature might be available in a given situation. So it is a combination of all of those things.

Mr. APPLEGATE. Thank you, Dr. Cohn. Dr. Rhine. John, it is always good to see you. Thank you very much.

Mike, do you have anything else that you wanted to say?

Mr. BILIRAKIS. A question that came to mind to counsel here: What are the numbers of those who fall in the category of over 90 days and less than 6 months?

Mr. VOGEL. I do not have that at my disposal, Mr. Bilirakis. I will submit it for the record. I do not know the numbers.

Mr. BILIRAKIS. If you would submit it for the record, please, I would appreciate it.

Mr. VOGEL. Thank you. I sure will.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

[Subsequently, the Veterans Administration submitted the following information:]

We estimate that there are approximately 15,500 living former prisoners of war who were interned over 90 days but less than 6 months.

Mr. APPLEGATE. Next we will have a series of five panels, and the first one that we have will be Mr. John Heilman, National Legislative Director of the Disabled American Veterans, and Mr. Mike O'Malley, sounds like a good Irishman, Deputy National Service Director for AMVETS; and Mr. Dick Johnson, Director of Legislative Affairs, The Non Commissioned Officers Association.

Are all three of you here?

I welcome you this morning, and I know that Dick Johnson and Rick Heilman are old pros; they have been here many, many times and I understand, Mike, this is your first appearance before a committee, and this is just very relaxed and open and feel free and say whatever you want.

Mr. O'MALLEY. Thank you, Mr. Chairman.

Mr. APPLEGATE. It is good to welcome all of you.

You may proceed, if you had an order.

STATEMENT OF JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. HEILMAN. Yes, sir. Good morning, Mr. Chairman, Mr. Bilirakis. I will summarize my remarks, Mr. Chairman.

With regard to H.R. 1084, proposing a 3.5 percent adjustment in compensation and DIC rates, we do support that, Mr. Chairman. As you noted, there is some question concerning the actual CPI movement that will occur by the end of this year, but we certainly leave the exact amount of the adjustment in the hands of this subcommittee and the full committee.

With regard to H.R. 1427, as you noted, Mr. Chairman, it proposes to recodify existing language relative to special awards of service-connected death benefits under Section 410(b) of title 38, U.S.C. My understanding is that the recodification is deemed necessary to set apart this rather unique award of DIC benefits, underscoring that it is not the same as a regular award of DIC.

We have no objection to that. We also support the slight modification in the definition of surviving spouse, that the bill would

make. In fact, Mr. Chairman, we would urge the subcommittee to consider conforming the definition completely to what now exists in Section 404, especially with regard to the factor of a child born of the issue. Under a normal award of DIC now, as you know, it is a 1-year requirement on the marriage, but if there is a child born of the union then the spouse is considered a surviving spouse, and we think that should certainly apply to 410(b) or the proposed Section 418 awards of DIC.

With respect to the two bills, H.R. 1543 and H.R. 1544, as you noted, a slight modification in the definition of former prisoners of war is proposed. It is also proposed to place the conditions of traumatic peripheral neuropathy, spastic colon, and peptic or duodenal ulcers into Section 312, among other conditions that are considered to be service-connected when diagnosed to a compensably disabling degree in former prisoners of war, and also the liberalization of law with regard to the outpatient dental care from 6 months to 90 days.

We are supportive of that, Mr. Chairman. POWs, of course, have undergone a very unique and traumatic experience. They have had great difficulty in establishing service connection for disabilities, especially those POWs in World War II; and of course that is the basis for the presumptions that are now accorded to them; and we commend you, Mr. Chairman, for sponsoring both these bills, and we do support them.

I would just make one further comment. There was some doubt expressed by the previous witness about the relationship between these diseases that are being considered today, or conditions, in the relationship to a POW experience. I would remind the subcommittee that Section 313 is in effect, and that is the rebuttal section of title 38. Regarding these conditions or the current ones that are now in Section 312 that relate to POWs, if the VA can determine that there was intervening circumstance, then they can actually deny service connection. I just wanted to make that point.

Also, Mr. Bilirakis, one clarifying point with something that you raised in one of your questions, and counsel can correct me if I am mistaken; you gave the example of a veteran service-connected while he was on a motorcycle, intoxicated, drunk. I do believe that the VA could associate misconduct with that, and in fact would not have a veteran so service-connected when misconduct is involved.

Finally, Mr. Chairman, you asked our views on the Administration proposal to index disability compensation DIC benefits. We are strongly opposed to that. We deeply appreciate the fact that this subcommittee and full committee and in fact every member of the full committee is on record as being opposed to that. We regard it as a thinly-veiled attempt by OMB to put the program on the back shelf, and we certainly think you and the full committee are eminently qualified to adjust these benefits and to continue your oversight functions on the program. So we are in complete agreement with you on that score, Mr. Chairman.

That completes my remarks.

[The prepared statement of Mr. Heilman appears at p. 58.]

Mr. APPLEGATE. Thanks very much.

I might remind you all that who will be testifying today that we will, we want to adhere to the 5-minute rule, because we do have five panels; we have a lot of people that want, that have something

that they want to say. Your statements will be made a part of the record. So as best you can, if you can stay within that 5 minutes, why, it would be deeply appreciated by everybody.

STATEMENT OF RICHARD W. JOHNSON, JR., DIRECTOR OF LEGISLATIVE AFFAIRS, THE NON COMMISSIONED OFFICERS ASSOCIATION

Mr. JOHNSON. Thank you, Mr. Chairman. I appreciate that. I will try to confine my remarks to something within that period.

NCOA is pleased to offer it support for all the legislation under consideration today, H.R. 1084, to provide a three and a half percent cost of living increase and compensation DIC benefits. H.R. 1427, making one technical change recodifying certain provisions of the DIC law. H.R. 1543 and H.R. 1544, provide improvements and certain POW benefits, and in addition, NCOA is opposed to indexing compensation DIC benefits, as we believe the committee has given that program great attention through the years, and we are cautious that such indexing would diminish the attention the program currently enjoys.

However, I want to take this opportunity, Mr. Chairman, to talk about the DIC program and the distribution of benefits under that program. NCOA continues to argue for a change in distribution of benefits under the DIC program.

Because it is the only program based on rank, rank has so little to do with disabilities, duration or amount of income prior to death, and the supposed basis for the program is founded in income replacement, to which there is no relation. The current distribution of benefits under the program is particularly unfair to the survivors of totally disabled veterans of lower rank, yet it is particularly advantageous to the survivors of minimally disabled veterans of higher rank.

NCOA believes the only logical answer and the only equitable answer providing DIC benefits is to create a flat rate which compensates all deaths equally, just as all living veterans are compensated equally. If necessary, some supplemental benefits might be paid to the survivors of catastrophically disabled veterans, or those who were combat disabled, or those who had long periods of service in the armed forces.

Finally, NCOA continues to advocate the current receipt of non disability military retired pay, veterans' disability compensation as proposed in Mr. Bilirakis's bill, H.R. 303, and Mr. Gray's similar proposal.

Military retirees are the only group of veterans that must forfeit other income to receive compensation for a service-connected disability. Such forfeitures are not required of other Federal employees, company presidents, doctors, lawyers, assembly line workers; nobody has to forfeit a portion of any other compensation to receive veterans' disability compensation except a military retiree.

That is particularly unfair when you consider that military retirees who are 30 percent or more disabled, must even forfeit that portion of retired pay based on a portion of veterans disability compensation attributable to supplemental income based on dependents, based upon dependent support.

NCOA urges the committee give immediate favorable consideration to the legislation to correct this inequity, and we commend at this time Mr. Bilirakis for his leadership on the issue, and deeply appreciate his interest in carrying forward a correction to this inequity.

That concludes my statement, Mr. Chairman.

[The prepared statement of Mr. Johnson appears at p. 62.]

Mr. APPLEGATE. Thank you very much, Dick.

Mickey, would you like to go?

STATEMENT OF MICHAEL A. O'MALLEY, DEPUTY NATIONAL SERVICE DIRECTOR, AMVETS

Mr. O'MALLEY. Thank you, Mr. Chairman.

I would like to introduce Mr. Lawrence Wheeler, our special claims consultant. If there are any technical questions the committee might have. Larry certainly should be able to answer them.

If I might also digress for a short moment, I would like to say that Amvets greatly acknowledges the exemplary efforts expended by this committee on behalf of veterans. You have always provided service organizations a working forum to discuss and provide necessary input on issues impacting on veterans' benefits.

Clearly, and I have waited a long time to say this, on behalf of Amvets, I thank you for a job well done.

Mr. Chairman, Members of this committee, Amvets appreciates the opportunity to express its views on H.R. 1084, H.R. 1427, H.R. 1543, H.R. 1544 and the Administration's proposal to index compensation and DIC COLAs.

Amvets supports the 3.5 percent increase to the Compensation and DIC programs. We note this year's proposed increase does not apply to the rate payable under 38 U.S.C. 314 K which is special monthly compensation based upon anatomical loss of use of an extremity or other anatomical or sensory parts of the body.

This particular special monthly compensation is a definable disability, no less than those identified under 38 U.S.C. 314 L through P. We request 314 K not be excluded in the construct of H.R. 1084.

Amvets has no objection to the technical change incorporated in H.R. 1427. We ask further consideration be given to allow for recognition of the surviving spouse if a child were born regardless of the length of the marital relationship.

We agree with H.R. 1543's exclusion of the phrase, "during a period other than a period of war in which such person was held." We support inclusion of the three additional presumptive disabilities contained in H.R. 1544, as our research indicates, such residual disabilities can be reasonably associated with the hardship and trauma encountered by prisoners of war.

Mr. Chairman, both H.R. 1543 and H.R. 1544 address the internment period required for VA dental care. We suggest conformance to the Department of Veterans' Benefits definition of POW, found in 38 U.S.C. Section 312(b). We believe such conformance would rightfully establish a 30-day period, not the 90-day period as proposed.

Mr. Chairman, there must not be two definitions of POW; one for compensation, the second for dental treatment.

With regard to the Administration's proposal to index compensation in DIC COLAs, we urge this committee to reject such action. We hold legislation of this nature to be contrary to the spirit and intent of that congressional mandate on which the Veterans Administration was founded.

Thank you, Mr. Chairman, for allowing me to forward the views of Amvets on these very pertinent issues.

[The prepared statement of Mr. O'Malley appears at p. 66.]

Mr. APPLEGATE. Thank you very much, Mr. O'Malley, and all of you for very eloquent and articulate statements.

I have no particular questions at this time, and I will defer to the vice chairman of the committee, Mr. McEwen.

Mr. MCEWEN. Thank you, Mr. Chairman.

We have all anticipated Mr. O'Malley's testimony. I think he did a marvelous job, and we look forward to many more such visits.

Mr. O'MALLEY. Thank you very much.

Mr. MCEWEN. My only observation would be is that each one of the service organizations are of the highest patriotism and interest in our Nation, of all the groups that we deal with, and of all the various committees.

The testimony, again, by the Disabled American Veterans, that they would be willing to jointly forego a COLA in the interests of the fiscal concerns of our Nation, even though I do not anticipate that happening and that further demand would not be made, is one reason those of us on the Veterans' Committee feel as we do about America's veterans.

There are those that continually boast that they would not lift a finger to aid this country and some even rally to say that they would not even register if the need to serve our country were to come before them, and yet the veterans of America, and specifically those who continue to bear within their body the burdens of service, whether it be emotional, mental or physical, are just in my opinion the ultimate golden center of our Nation, and I respect them and I appreciate them, and I thank you for your testimony.

Mr. APPLEGATE. Thank you very much, Bob.

Mr. Tim Penny of Minnesota since we commenced, and I would refer to him at this time.

Mr. PENNY. Mr. Chairman, I am new to the Compensation Subcommittee, and welcome the opportunity to join this subcommittee in its work. I have no questions of this panel, but I am supportive of the measures that we are holding hearings on today, and thank the witnesses for their presentations here this morning.

Mr. APPLEGATE. Thank you very much, Mr. Penny, and we are very delighted, believe me, to have you on board.

Mr. Bilirakis.

Mr. BILIRAKIS. We keep you confused, Mr. Chairman, the way we move around here, do we not?

[Laughter.]

Mr. APPLEGATE. Yes.

Mr. BILIRAKIS. Thanks, Mr. Chairman. I certainly would endorse the remarks of my colleagues. This is the second time since I have been in Congress where veterans have come up here and volunteered to basically freeze their COLA, and "it ain't gonna happen," because it should not happen.

Mr. McEwen said it well; I am not going to repeat that. I will say that I am a very proud member of Amvets, Mr. O'Malley, and also Dick knows, of the Non Commissioned Officers Association. I have been told I may be the only non com who actually went in as an enlisted man and came out as an enlisted man. I do not know whether that is true or not, but I am very, very proud of the fact that I am a true non com rather than an honorary member of that group.

Shortly after I made my remarks on the guy on the motorcycle, I realized I had misspoken; but, you know, maybe I should have used the word negligent or careless or whatever the case may be, rather than drunk. And I am not going to ask you for your response now, but maybe you and the other groups might let us know how you feel about that type of a situation; should an individual in that type of a category have the same priority as far as medical care is concerned, et cetera, as a disabled veteran, service-connected, who received it in battle; and then all this vis-a-vis the POW, you know, in terms of a higher category than the POW when it comes to medical care.

So I am not going to ask for your opinion now, but I would sure appreciate getting your feelings on that subject. I do not know whether I can speak for the committee when I say this. Our veterans are our veterans, and I do feel that they all should be treated very well. The trouble is we are all running into money problems as we go along here; and rather than run the risk of taking benefits away from those who may be a little more deserving, should we be looking at alternative plans?

I am not necessarily suggesting we split up the categories of service-connected disabled veteran here, but I would like to hear your opinions on that. Possibly you might drop a note to me on it.

Mr. HEILMAN. Certainly.

Mr. BILIRAKIS. Thanks.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you very much, Mr. Bilirakis. That takes care of our subcommittee as far as comments or questions. Is there anything else any of you would like to add?

Mr. McEwen.

Mr. MCEWEN. If I could, while we have Mr. Johnson here, to express my best wishes to him this year in their efforts to secure a national charter. I know that all of us on this committee are supportive of it; it is a financially sound organization, a respected organization, and I am convinced this will be your year, and wish you every success.

Mr. APPLEGATE. Thank you, Mr. McEwen. I am glad you brought that up. And of course the entire committee does support you in that.

Thank you very much for being here.

The next panel we have will consist of the former POWs and the American Defenders of Bataan and Corregidor, and who we have today is Curtis Musten, who is the National Commander of the Former Prisoners Of War, Inc., and Dr. Charles Stenger, Consultant on Legislative Affairs, American Ex-Prisoners of War, Mr. Albert Bland, Director, and Mr. Paul Reuter, Adjutant of the American Defenders of Bataan and Corregidor.

It is always good to have you gentlemen. It seems like we have been meeting together for some time, and it is always good, of course, to see our very lovely colleague, too, our congress-lady from the great State of Maryland, Helen Bentley. Helen, nice to have you with us.

Ms. BENTLEY. Thank you, Mr. Chairman. I am here just to introduce one of my constituents who is testifying today.

Mr. APPLEGATE. Well, you have some good ones. I don't know which one it is, but they are all good ones.

Ms. BENTLEY. He is sitting right here. I won't let him get away from me.

Mr. APPLEGATE. I think we could just go ahead and proceed, and I think with that, Helen, we will just turn it over to you and let you make your introduction and we will start that way.

Ms. BENTLEY. I am very honored, as a matter of fact, Mr. Chairman, to be able to introduce one of my constituents, Alfred J. Bland, who is the National Senior Vice Commander of the American Ex-Prisoners of War. He is also the National Director of the American Defenders of Bataan and Corregidor.

Mr. Bland, who entered the service from Baltimore in 1937, was one of the 25,000 Americans who were on that infamous death march of Bataan, the Bataan Death March. It was on the 9th of April of 1942 when he and the others were ordered to surrender to the Japanese and then they were prisoners of war of the Japanese until the end of the war in 1945.

During that time, he and 30 enlisted men and generals and colonels were sent to Crengl in Formosa, where they worked on farms and buildings, they were shipped to Shirokawa, where again they worked on dams, farms, roads, rice paddies, et cetera. They were even in Manchuria at one point. So he really knows first-hand what the prisoners of war endured.

After the service, he entered civil service and attended the U.S. Air Force Institute of Technology and received a master's degree in quality control. Now he is spending most of his time in ex-POW affairs.

So I am very pleased this morning and I will leave him with the rest of the panel to make their presentation to you.

Thank you, Mr. Chairman, for this time.

Mr. APPLEGATE. Thank you very much, Helen. I really appreciate that.

I had a chance to get to meet Al Bland, and he is the highest caliber, highest level degree of a gentleman, along with the National Commander, and really appreciate a good working relationship, and particularly now because of the fact that they were successful in having the recognition day named today. I just regret that we didn't have a little bit more of a ceremonious signing so that we could make the country more aware of the fact that today is the recognition day for the former prisoners of war.

I think it is something that every American should be very much aware of and sensitized to because of the sacrifices that were made by you gentlemen, and I for one, as one American, appreciate that very much.

Mr. Bland, are you going to begin or turn it over to your National Commander? Okay. Commander Musten, welcome. You may proceed.

STATEMENT OF W. CURTIS MUSTEN, SR., NATIONAL COMMANDER, AMERICAN EX-PRISONERS OF WAR; ACCOMPANIED BY DR. CHARLES PRIGMORE AND DR. CHARLES STENGER

Mr. MUSTEN. Thank you, Mr. Chairman and members of your committee.

First of all, I would like to commend you and give you a heartfelt thanks for the support that you have shown in the past. I am looking forward to working with you in the future.

Mr. Chairman and members of the committee, I am Curtis Musten, the National Commander of the American Ex-Prisoners of War. I want you to know that I am honored to be invited to speak to you today on behalf of all American ex-prisoners of war on the two bills, H.R. 1543 and H.R. 1544.

These two bills address and hopefully will correct some of the shortcomings in health care for the American ex-prisoners of war that occur, for the simple reason that the enemy either did not keep or did not turn over to our military the medical records that the Veterans Administration requires to establish service connection.

The fact that a person was captured while fighting for his country should not be a reason to receive less than the best the Veterans Administration can provide.

Of course the lack of records is a major problem for our group. However it is not the only one. When our members were released from the prison camps and returned to this country, the most important thing in their lives was getting home to their loved ones. Any indication of a health problem would have meant a delay, and this was not acceptable. Of course, the doctors and medical staff were eager to get on with their lives and were leaving in droves, causing a major shortage in this area.

But we should remember also that the medical staff was asked to discharge in a very short time members of the armed forces which had been put together over a long period of time, and the facts are the medical personnel were not familiar with the damage done to the body and the nervous system of the ex-prisoners of war, the damage of the combat experiences, the humiliation, dehumanization and the deprivation while being held in concentration camps. To this add the death marches in weather below zero and in stifling heat without water, shelter or food. These are basically the stories of all American ex-prisoners of war.

So the end result was inadequate physicals where they were given, and in some cases the men were not even given a physical.

Let me, if I may, give you an example of an ex-prisoner of war that I know very well. He was given a physical prior to discharge. This is after he had come home. He had been well fed and had gained basically the weight lost during his period of incarceration.

When he was being given the examination, the doctor that was doing the examination had the form before him and was checking off the various things that the prisoner of war was telling him, and

then the prisoner of war remarked to him: I know that my health is not good. I know that I am sick. I know that I need treatment, and I would like you, if you will, to give me some advice. This was the statement of the ex-prisoner of war.

The physician said: Let me be absolutely frank with you since you have put it in that context. He said: I could put you in the hospital here, but the chances are you would not get the treatment that you require but it would be delayed, possibly for a long period of time, and if I were in your position, I would take the discharge and report to the Veterans Administration.

This is what the ex-prisoner of war did. He went to the Veterans Administration, the outpatient clinic, where other tests were done, X-rays taken and these kinds of things. He began to lose weight, lose the weight that he had gained during the period that he was home, and he went to a private doctor, a doctor that was paid from the insurance of the company that he worked for.

This doctor placed him in the hospital, did some examination, and the diagnosis was malaria and hookworm, and treatment was given. The condition improved somewhat but continued to deteriorate. This veteran, this ex-prisoner of war was a bird hunter and had dogs, so within the next couple of days he went to the vet and asked the vet to get medication to take care of the parasites in his bird dog. Just casually, he asked the vet if the same medication that was used on the dogs would be appropriate for parasites in human beings. The answer was positive, only that his body being larger, the dosage would need to be increased.

So the ex-POW took the medication and took the series. It was a series. I believe he said that it was 5 days, and then 10 days later another series of 5 days. He said it was a new medication that was much more effective than what we previously had.

This veteran, this ex-prisoner of war, told me that stools that he passed were at least 75 percent hookworm, other parasites and other types of things that were in the stomach of an ex-prisoner of war. The ex-prisoner of war improved to some extent but continued to lose weight. His red blood cell count was reduced.

Finally, he sought and found a physician who was familiar, who had spent most of his life in the Dominican Republic studying tropical diseases. This physician took this ex-prisoner of war, did an examination and found that he had a severe case of amoebiasis. He was treated for this condition, and his health improved to the point where he could go back to work and continue his career in the business that he worked for.

Mr. Chairman, I want to assure you that every ex-prisoner of war I know has only one goal in all of these hearings and with the bills that are introduced. It is to have our people treated in the same way that a veteran would be treated if his medical records were accurately and fully documented. There is absolutely no desire to gain any advantage because we are ex-prisoners of war.

By the same token, we are not ready to accept anything less than the best because our records are incomplete. This is no fault of our own. The first thing the veteran wanted to do when entering the Army was to get in, to defeat the enemy, unconditional surrender. That was the objective then and that is our objective now.

Then we wanted to get back to our loved ones, pick up our lives where we left off, go to work and attempt to forget the ex-prisoner of war experiences.

Mr. Chairman, I have with me Dr. Charles Prigmore and Dr. Charles Stenger, and I would be pleased to answer any questions that you may have.

[The prepared statement of Commander Musten appears at p. 70.]

Mr. APPLEGATE. Thank you very much, Commander. I appreciate that statement and the experience that you related concerning the former prisoner of war.

Before we go on to the next person to hear, I would like to recognize the fact that we have our great chairman, Sonny Montgomery, here, and I would like to refer to him, Mr. Chairman, if you have anything you would like to say at this time.

Mr. MONTGOMERY. I will be very brief, Doug. Thank you for giving me this opportunity.

I met with the distinguished leadership of the ex-prisoners of war either yesterday or the day before. Which one was it?

Mr. MUSTEN. Tuesday.

Mr. MONTGOMERY. I am sorry there was confusion, but thank you for coming by. Let me assure you that Doug Applegate and Bob McEwen and others on this subcommittee, including myself, will see that the prisoners of war are treated fairly, as we have tried to do for a number of years. This was the committee that came out with the first real help for the ex-prisoners of war. I appreciate your nodding in agreement.

Also, this is Former Prisoner of War Day. This resolution was sponsored by Mr. Applegate and Mr. McEwen and myself and others, Tim Penny, and you did, too, Mike Bilirakis.

You mentioned also that 45 years ago Bataan and Corregidor fell, someone was telling me this morning.

Mr. Chairman, we are getting ready to go to the Phillipines with some veterans' organizations sponsored by this committee to take a look at the memorials in Corregidor and also Bataan that were built by Americans for those Americans that fought in the Pacific, and we hope we can restore those memorials. They have almost been destroyed, and a number of people who go over there are very, very concerned that where many Americans paid the supreme sacrifice, were severely wounded, fought in that part of the world, that these memorials such as Corregidor and Bataan have almost been destroyed by scavengers.

So we will come back and give you a report, but the trip will be worthwhile and we hope we can work out something with the Philippine Government to come up with perpetual care on those memorials.

Thank you

Mr. APPLEGATE. Thank you very much, Mr. Chairman. I wholeheartedly agree that these memorials have to be maintained, and I don't think there is anything that irritates me any more than when people do scavenge or mar or ruin the memorials that we have to our veterans or that do anything derogatory against our Nation, including the flag. I think there are certain things we have that we hold high above most everything else, and when people

seek to destroy those, for whatever purpose, I think we should set about trying to resolve that in a hurry, and with the individuals, too, if we can catch them.

Mr. MUSTEN. Mr. Chairman, excuse me, please. You have the packet, but there is one correction that has been made for the record. In the packet that you were handed, on page 3, the last paragraph, the paragraph reads, if it hasn't been corrected, "We were gratified that the VA did oppose this legislation," and the word "not," should be inserted after "did."

Mr. APPLEGATE. It does make a difference.

Mr. MUSTEN. Thank you very kindly.

Mr. APPLEGATE. Thank you, Mr. Commander.

Dr. Prigmore, did you want to testify at this time?

Dr. PRIGMORE. Mr. Chairman, I would just like to say very briefly that since I have been the legislative officer for this organization, I have been extremely happy with the cooperation of this subcommittee and of the overall committee. I was one of them that nodded a while ago when Chairman Montgomery made his comments.

I would like to add too that I have made every effort as legislative officer to keep our legislative requests modest and directly related to the POW experience. I have not been in favor of broad and sweeping legislation. I opposed that when I was on the Advisory Committee for Former Prisoners of War of the VA. I would like to have our request adopted, and I have made every effort to keep our request specific to the POW experience, modest, and as tangible and direct as possible.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Prigmore appears at p. 81.]

Mr. APPLEGATE. Thank you, Doctor.

Dr. Stenger?

Dr. STENGER. Yes, I would like to say a few words. If I may, at the end I would like to comment on Dr. Howard Cohn's reference to Dr. Woodard's position on things, but I would like to just give you a picture of a Veterans Administration that POWs come into rather than the one that seems to be described in other testimony.

Mr. Chairman, on June 5th Mr. Grady Horton stated before this committee that typically, and I repeat "typically" service connection can be and is recognized on a direct basis. We believe there is no need for a statutory presumption for the vast majority of claims, but this legislation could serve as a safety net for POWs.

Congress then enacted legislation making residuals of cold injury and traumatic arthritis presumptive. Circular 2187-5, dated February 24, 1987, contains the implementing instructions. They appear to be excellent in every respect. However, in that circular VA acknowledges from recent data 1,700 denials of service connection for those two conditions alone. I don't know the period of time. I think it is a 5- or 6-year period of time.

Clearly, the direct route does not work for the vast majority, and the safety net that Congress provided for those two conditions was indeed necessary. The safety net that Congress also provided through the Board of Veterans Appeals is also inadequate. Their data for 1983 show only two of 45 appeals were allowed for residuals of cold injury.

In 1983 and 1984, according to VA testimony, BVA denied total of 99 such claims. This is what typically occurs in the adjudication appeals process. They are not typically approved. Is the safety net of statutory presumption necessary for the conditions contained in H.R. 1544? The answer, derived solely from VA data, is a resounding yes. We have provided information as to the medical bases why those things should be included, but I would like to just give you a little more example from BVA's only data.

VA wrote to this committee on June 23, 1986 acknowledging 5,585 denials of gastrointestinal conditions closely allied to or including spastic colon while allowing 289. This was a 95 percent denial rate. SIRS data on January 1, 1987 showed a total of 91,596 denials of service connection for all conditions since October 1, 1981. In other words, the found 91,000 medical conditions of POWs but denied service connection for them.

During this same period, 23,700 claims were granted or increased, and I use that word cautiously because the VA has never separated those. We don't know what percent were new or were simply increased over this period of time. However, we do know that since 41 percent were for psychiatric conditions made presumptive by Congress, the vast majority of other claims of POWs are still being denied.

As a footnote, 76 percent of all approved disabilities currently are rated at the zero or 10 percent level. A few years ago it was 71 or 72 percent. So if POWs are service connected at all, the great majority are at the zero or 10 percent level.

Now, the question is why are they denied? Is there merit to the denial or is there not?

The rating policies are very liberal in principle. Our view is that they do not work in practice. And let me just cite what those regulations are, that I think are excellent, and give you one example of a most recent denial.

This is taken from M21-1, Change 415, January 3, 1986, and it says: "Rating Claims Based on Prisoner-of-War Status," and this is from DVB's publication: "If a former prisoner-of-war files a claim alleging service connection for a disability incurred just prior to internment or during confinement"—and this is the important part—"it is necessary the Government prove the disability was not incurred in service before service connection can be denied."

Then it goes on to say, "Accept the veteran's statements as to wounds or injuries occurred just prior to internment or confinement as proof of the actual occurrence of the condition in question," and this is the contingency, a good one, "if residual disability is noted which can be attributed to the service incident."

Now that's a beautiful statement. The problem is, it's not followed.

This document then goes on to say: "Absence of Records. In many POW claims, there is a paucity or complete absence of records of treatment or diagnosis of the diseases or injuries during the confinement period. If disabilities are first diagnosed after service, give special attention to the veteran's POW experience in determining the relationship of such disabilities to service," and this goes on, but I think you get the vein of it.

Now I have worked with the Board of Veterans Appeals for maybe 7 or 8 years, and I think I've testified before that their denials, which have previously been denied by the Board of Veterans Appeals, are typical actions, and I want to just read this one. I'm not asking you to judge whether the final decision was correct or not, but whether or not they are following the principles here. This is dated March 31, 1987. It's the very latest one.

The gentleman was shot down over Germany. He was pushed out of the airplane unconscious. He regained consciousness about the time he landed. He suffered a lot of physical injuries at that point. But the issue I want to point out here is the way the Board of Veterans Appeals and DVB before it dealt with the issue of does this man have an ulcer.

And I'm quoting from the Board of Veterans Appeals records. Incidentally, the veteran had buddy statements describing specifically his injuries at the time of the crash and as a POW, and those buddies' statements are very explicit, and they are part of the VA record.

This is only on the issue of the peptic ulcer. The VA starts off by saying this: "Where a claim is initially filed many years after service, it is often difficult to recreate the medical events that took place many years earlier. It is especially difficult in this case with the absence of service medical records. They were destroyed in the fire. Nevertheless, the Board extends the widest possible latitude in evaluating the claim of a former prisoner-of-war in attempting to see whether the benefits claimed can be allowed on appeal."

That's beautiful up to this point. In this case—and I'm reading form their record—"the veteran submitted a statement from a former service associate who recalled his frozen feet and gastrointestinal problem. The Board also notes a statement of Dr. Curry." Dr. Curry was the veteran's family physician before he went to service, and he treated him after he got home. "Dr. Curry, who advised that he was the veteran's family doctor, and in 1946 he treated the veteran for an ulcer, at which time he was also very nervous and complained of back pains."

Then—I'm still reading from their record—"the medical and lay evidence has to be viewed in light of other evidence of record which shows that the veteran was initially retreated for a reported ulcer in 1948 and again later on." They are acknowledging the physician's report in 1946 and acknowledging later treatment in 1948.

It goes on to say, "Although there was no indication at the time that he had X-rays which confirmed the presence of the ulcer."

Incidentally, outside medical opinion the VA has obtained in at least one case says—this physician says—"that the radiological examinations are not a very reliable determination of ulcer." I've got that physician's report here, if you would like to have it.

At any rate, this is then the Board of Veterans Appeals. "In the absence of such confirming clinical evidence, the Board cannot conclude that the veteran's reported gastrointestinal symptoms in service were the forerunner of an ulcer many years later." They began within a year after he got out of service.

"In addition, in the absence of clinical confirmation of a peptic ulcer within 1 year following separation of service, the Board cannot conclude the veteran had a peptic ulcer either in 1946 or in

1948." Clearly, the peptic ulcer that the physician diagnosed in 1946 was a process that was going on for at least a number of months before that.

Mr. APPLEGATE. Dr. Stenger, let me just say that we—try, as best we can, to stay within that 5-minute limit.

Dr. STENGER. All right. I'm just finishing. I just want to read their final statement.

"The doctrine of reasonable doubt has been considered in the review of this case." I cannot see that it really has.

With respect to Dr. Cohn's comments about Dr. Woodward, I would like to say to the committee that the Medical Subcommittee of the Advisory Committee was in unanimous agreement itself, not involving the position of the veterans.

Dr. Woodward, as I understand his comments, does not support conditions unless we qualify that the veteran served under circumstances where these things could have occurred. I don't think he is rejecting out of hand that these conditions probably should be put under presumptive basis.

I know there is going to be discussion next week, and we look forward to it. But at any rate, I think that statement is not quite full as presented by Dr. Cohn. I think he recognizes that.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Stenger appears at p. 84.]

Mr. APPLEGATE. Thank you very much, Doctor.

Mr. Reuter?

STATEMENT OF PAUL REUTER, ADJUTANT, AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC.

Mr. REUTER. I would like to add one item to Congressman Montgomery's trip to the Philippines. At Camp O'Donnell, there is one item they call the concrete cross. There is a short story behind this.

Camp O'Donnell was the first prisoner-of-war camp after the Bataan march. Between April the 9th of 1949——

Mr. APPLEGATE. Mr. Reuter, would you please pull that microphone down a little closer to you?

Mr. REUTER. Between April the 9th, 1942 and June the 3rd, 1942 of the perhaps 93,000——

Mr. APPLEGATE. Get closer to that mike. The gal here is having a difficult time. She's got to get all that down.

Dr. STENGER. Of the approximately 9300 prisoners-of-war, people that finished the march, there were 12. 1265 had died in Camp O'Donnell by June the 3rd.

The Japanese gave the administrative people in the camp one sack of concrete in order to make a monument for those that are buried there, and this monument still stands at Camp O'Donnell at the site. It's badly deteriorated, and we, within the American Defenders of Bataan and Corregidor, have at certain times tried to have it moved, but I think if Congressman Montgomery could add it to his itinerary, perhaps something could be done with it.

Mr. APPLEGATE. I think that will be brought to his attention, and I appreciate your——

Mr. REUTER. I'll offer to go along and carry his bags.

[Laughter.]

Mr. REUTER. That's all I have. Thank you.

Mr. APPLEGATE. Well, I certainly thank you very much.

I just want to ask Dr. Stenger if he might answer one question. We always talk about the relationship of the Veterans Administration as in a non-adversarial manner.

Would you suggest, with what you're saying, that that really is not the case?

Dr. STENGER. I don't think it intends to be adversarial. I think that it simply has a terrible problem with dealing with POW claims because of the lack of evidence and the delayed nature of many of their conditions, so that if it doesn't have medical evidence in the record in front of it, it simply denies most of those claims.

Just despite that general statement, the adjudicators find it almost impossible to apply it in a very concrete way.

Mr. APPLEGATE. How can you—what would you do to further resolve that?

Dr. STENGER. Well, I think they need very explicit guidelines as to how to apply these general principles that are excellent. I see nothing at all critical about that. But they're given that vague language, but not told how to apply it, so that what they do is, they then follow their general procedures, which may work beautifully for 99 percent of the veterans, but do not work at all for this.

I think in that case example I gave you that certainly there was medical—this physician, family doctor, put this in writing. There was medical evidence there, but it didn't satisfy the high standard.

Now if there's no other available, I think that the Veterans Administration simply has to accept what is reasonable evidence in good faith. And incidentally, the psychiatrist of this veteran said he was a wholly honest and open person. So they found no reservations that might suggest that he would in any way attempt to distort or exaggerate his condition. And it was just turned down.

Mr. APPLEGATE. Thank you, Dr. Stenger.

Mr. BLAND. Mr. Chairman, I'd like to——

Mr. APPLEGATE. Mr. Bland, yes.

Mr. BLAND. I'd like to make my statement.

STATEMENT OF ALBERT J. BLAND, DIRECTOR, AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC.

Mr. BLAND. Mr. Chairman and members of the Committee on Compensation, Pension and Insurance, I would like to express my appreciation for being provided the opportunity to address this committee in this important and urgent consideration of compensation for illness and disease incurred from prolonged prisoner-of-war conditions. And again, I want to thank you and thank Mr. McEwen for your aid and help and assistance in these particular bills, and there again, I'd like to thank you all for it being April the 9th.

Well, April the 9th, 45 years ago, I, I guess, along with Paul were destroying all our arms, ammunition, emplacements and everything else and getting ready to surrender. At 12 o'clock noon today, to the Japanese on Marvales Airfield, and if you've ever been in the tropics, between 12 noon and 4 p.m. in the afternoon was the heat of the day. And here we stood up until about 6 o'clock before we saw our first Japanese officer.

And then the search and seizure took place. The Japanese came along and searched you, went over and anything that they wanted, they took. If they wanted your canteen, they took that. And some fellows happened to be unlucky to have some Japanese items on them, and I think there was approximately eight in the group I was with, and they were taken out and shot and beheaded.

So that was our first inclination of the Japanese. That very same day, a little Japanese fellow was driving one of our trucks, and he happened to run into this officer's car. He chewed him out once side down the other and then pulled out his gun and shot him.

So that's what we were looking for. Now the American Defenders of Bataan and Corregidor fully support and speak in favor of H.R. 1543 and H.R. 1544, which, in our opinion, are long overdue for a small aging group of former POWs.

In my written statement, I stated, "We may have to return again and ask for help." In a speech I just received recently from a Dr. Shadish, who was a Korean doctor in a Korean prisoner-of-war camp, it raises questions about the POW—the Korean POWs.

Just last week, when I was in New Jersey speaking to a group of former prisoners-of-war, and they were telling me about, there's a group that goes to the Lion's Hospital, and they go to the Dermatology Clinic, and every one of them come down with a certain kind of skin disease, and the only common denominator they can find, because they came from all the different areas—from the Philippines, from the ETO, from the desert—all of them came down with this skin disease, and the only common denominator was that we were all sprayed with DDT.

And I'd like to say just about every one of the POWs here was sprayed maybe three or four times with DDT. I know I was four times, and it's right now, you know, it's banned, so evidently there must have been something wrong with it. I mean, I hope the VA starts a study on that particular system.

I would like to comment on Dr. Cohn's statement that he made about Dr. Woodward and the POW Advisory Board was against these items. Well, the Advisory Board met on the 3rd and 4th of October—I mean of March—and I don't believe your bill came out until the 11th of March, so it was impossible for—I believe it would be almost impossible for Dr. Cohn to know what was in there.

What Dr. Cohn and Dr. Woodward—I mean Dr. Woodward was a little bit—said he couldn't go along with was, we had previously introduced a bill that we thought would be more or less all conclusive, and I admit that the wordage in there would have to be refined, so that you could and the VA and the people could go by it.

And there, again, is—I'd like to go against—also talk about Dr. Cohn and the VAO pamphlet. They specifically have peripheral neuropathy associated with malnutrition. So the VA recognizes it, but the Adjudication Officers don't recognize it.

Also in Dr. Woodward's statement on page 103 of the June 19, 1985 statement before this committee, Dr. Woodward talks about neuropathy there, that it is—also on page 104, anxiety and fear. "Under such conditions, stomach secretions increase. Ulcers frequently occur." So there's Dr. Woodward's—Dr. Cohen's statement is a little bit in error.

But I'd like to also—I'd like at this time to compliment Dr. Cohn and Herb Mars as being two of our outspoken people for us in the VA. They do an outstanding job for us.

For the last few years, we have heard from the VA, they are waiting for results of the NAS/NRC studies. Where are these studies, and how much longer must the POWs wait?

Mr. Hogan, in his statement of June 19, 1985, that the studies would be complete in 1986. Here we go. This is April of 1987, and still no results.

Now I understand there's a new study to be conducted by the NAS/NRC, which a group of former prisoners-of-war and a group of non-POW combat vets are going to be examined and compared. Is the VA going to ask us to wait for these results before they can support our claim?

We in the ADBC support H.R. 1543 and H.R. 1544. We know time is running out, that any bill that is passed will benefit all foreign prisoners-of-war, the POW community, and I want to thank you and your committee for all the support you and your committee and staff has shown us. We again ask for your full support in this important legislation.

Thank you very much.

[The prepared statement of American Defenders of Bataan and Corregidor, Inc. appears at p. 88.]

Mr. APPLEGATE. Thank you very much, Al. I appreciate that, and I appreciate all of you, and we will have a chance to review all of your testimony, too, and yours too, Dr. Stenger. I want to take a double look at that. But you articulated very well the positions, as you always do.

I would also like to just take a moment to recognize somebody else that's in the audience, and that's Chuck Williams, who is sitting out there, because Chuck did a great deal, a lot of input—thank you, Chuck—in helping on this former prisoner-of-war resolution, too, and he was very active in that, so I want that to be known, too.

Mr. McEwen?

Mr. MCEWEN. Thank you, Mr. Chairman.

And on that score, I think that we can anticipate perhaps introducing a resolution for next year, so that we can hopefully get it signed prior to midnight of the day of the occasion and give the proper recognition that certainly all of you and our Nation is due for this effort.

Just two quick questions, if I may. Mr. Bland, from your testimony, I was trying to draw some conclusions, and perhaps what you're saying is that the VA policy was correct, but that there seems to be some difficulties in the implementation; there are representatives—Mr. Mars is here from the Veterans Administration and others are as well,—that perhaps we could give the message to them, if that is your message. Or do I misunderstand it?

Mr. BLAND. No, that is correct. Even their own pamphlets say that it is service-connected, it is connected with POWs. But the—Herb Mars and Dr. Cohn do an excellent job in the central office. But once you get out of the central office, each individual Director of the hospital and each Director of the VA Regional Office is an

entity in itself, so he writes down what he wants to write, and this is where it's being lost in translation, sir.

Mr. APPLEGATE. Thank you very much.

Dr. Stenger, just before we change the panels here, let me just read a couple sentences from Mr. Musten's testimony, and then I'd appreciate your comment on it.

He says: "However, we do want to state in an equally clear manner that we feel the VA's efforts on behalf of POWs in the health care area have been extensive and beneficial. When deficiencies are identified, concerted efforts are made to correct them. POWs deeply appreciate VA's continuing efforts to make its health care services effective in practice as well as in policy. We would welcome a similar determination on the benefits side."

Can you give us any insights you might have on a statement of that sort?

Dr. STENGER. Well, I have worked with Dr. Cohn in the past, and I was a part of DM&S. Dr. Cohn has had a number of meetings around the country where the main purpose of these meetings is to ensure a higher level of understanding and compliance of health care personnel with these policies and principles. And if there is an area where they feel they are deficient, there is an immediate direct action with that particular station to try and improve the situation.

I have not found that so with the Division of Veterans' Benefits.

I believe that they strongly believe that their current policies are working. Believing that, they are extremely reluctant to take a critical look at what actually happens in the field.

On that case that I reported, I want to emphasize, it is typical; they are all like that. There is almost no difference. You could pick 100 recent cases of POW ratings by a DVB board or an appeal thing, and you will see the same language.

My question then, is, how is reasonable doubt applied to these things? You look at it and you say "My God," you know, the family physician knew the man before; he made a diagnosis right away, and this is still rejected as "not sufficient." What would ever be sufficient?

Well, nothing is unless it is in that man's medical record right at the time. And that is the problem. The broad statements suggest that there should be more leeway given to the individuals in the field; but from my talking with adjudicators who I certainly agree are well-intentioned, good VA employees trying to do their job, they just don't feel that they have the clear understanding of how to apply those principles in a practical way consistent with the broad statements.

So they are not applied; they are just not applied.

Mr. MCEWEN. Gentlemen, again, thank you very much. We appreciate your being before the committee, and hearing your testimony.

Dr. STENGER. Thank you.

Mr. APPLEGATE. Our third panel will consist of Commander John Wanamaker, USN retired, Deputy Director of Legislative Affairs, the Retired Officers Association; Mrs. Nan Nave, Assistant Legislative Chairman of the Gold Star Wives of America, and Mr. Tom Milier—and I am not sure that Tom is here today, but as I men-

tioned previously, that the Blinded Veterans Association, which he is Director of Governmental and Community Relations, will have a statement for the record. So that will be submitted.

[The prepared statement of Blinded Veterans Association appears at p. 156.]

Mr. APPLEGATE. Let me just remind you again if I could, that we are trying to stay within the 5-minute rule, see if we can get out of here.

We have Mr. Charles Partridge, Legislative Counsel, National Association for Uniformed Services, and, ladies and gentlemen, it is very nice to have you here again. You have been here many times here before, and welcome.

You may proceed as you wish.

Miss Nave, did you want to begin?

STATEMENT OF NAN NAVE, ASSISTANT LEGISLATIVE CHAIRMAN, GOLD STAR WIVES OF AMERICA, INC.

Ms. NAVE. Thank you, Mr. Chairman, and members of the subcommittee. I am Nan Nave, Legislative Assistant of the Gold Star Wives of America, residing in Washington, D.C.

I am here today before this committee to present this statement of Geraldine Chittick, the National Legislative Chairman, who is unable to speak at the present time due to a vocal injury.

We welcome this opportunity to appear before this committee to make known the position and recommendations of the Gold Star Wives of America on matters relating to the DIC program. The regard with which this committee hears the views and recommendations of our organization is very much appreciated. We thank the committee for the priorities placed on protecting and strengthening the benefits that control the livelihood of survivors of servicemen and veterans.

Concerning H.R. 1084, which at this time calls for a projected 3.5 percent increase in DIC would assure that our compensation can be expected to at least partially keep pace with the increased cost of living. At that same time we would remind the committee of our concerns about continuing still another year under the current formula, bringing about the further widening of the difference between the highest and lowest compensated widows.

The formula provides less than adequate benefits to lowest ranked widows and has continued for too long a time. Because of budgetary constraints, we recognize that this is probably not the year that the kind of DIC formula revision that is needed can be implemented. It may be well more than a year or two before this can be achieved because of the deficit problems.

However, it has become obvious a fair and acceptable revised formula will not be easily reached. Each organization possesses deep feelings as to what is fair and equitable. Widows of servicemen killed while on active duty have survived an unforgettable trauma from which one never completely recovers; and yes, this does remain true for widows who have remarried.

It is no simple responsibility to rear children alone, and we also recognize that widows of service-disabled veterans have forgone a far different experience. Gold Star Wives of America request that

the committee implement steps toward looking into the possibilities of a formula based on the recommendations presented to the committee by this organization; an equal base pay on which all COLAs would apply plus a fixed amount based on rank and length of service.

Under this proposal, every widow would always receive the same base pay and the dollar increase would always be the same for all benefit recipients.

The provisions of H.R. 1084 for a 3.5 percent COLA would result in a $17 increase for the E–1 increase and a $45 increase for the 0–10. The absolute necessities of housing, utilities, food and medical expenses increase equally.

In order to address the immediate concern, we have suggested to the committee that the appropriated funds for the projected COLA might be equally divided among all DIC recipients until such time as a revision in the formula can be achieved, thus putting a halt to the ever-widening gap between top and bottom in providing some relief to the lower category group.

On H.R. 1427, we are unable to concur that a spouse should be a recipient of DIC after as little as 1 year of marriage to a service-disabled veteran. We believe this would increase an already abused practice.

I have two other items of major concern. This committee's diligence in recent years in providing annual congressional review of the compensation and DIC program would render unnecessary the Administration's recommendation that our COLAs be indexed. We would be extremely concerned to have this occur prior to a revision of the DIC formula. In addition, annual congressional review does provide an instrument for handling other matters pertaining to the program.

Lastly, with a revelation that other Federal programs now provide for remarriage after age 55 instead of 60 without loss of benefits, the hue and cry from some DIC recipients will become even more pronounced.

We would again request the committee to look favorably at such legislation and include it in the future hearings.

Thank you for your invitation extended to the Gold Star Wives of America to participate in this hearing and for your continued support to our group.

[The prepared statement of Gold Star Wives of America, Inc. appears at p. 112.]

Mr. APPLEGATE. Thank you very much, Nan. We have of course discussed that in the past, and I know that we will be talking about it in the future. We look forward to whatever your proposals are.

Commander?

STATEMENT OF COMMANDER JOHN WANAMAKER, USN (RET.), DEPUTY DIRECTOR, LEGISLATIVE AFFAIRS, THE RETIRED OFFICERS ASSOCIATION

Commander WANAMAKER. Thank you.

I want to thank the committee for this opportunity to express the views of the members of the Retired Officers Association on legislation pending before this committee.

The legislation under consideration would make changes to the programs which provide compensation to veterans and their survivors for income losses due to the death, disease, or injury attributed to military service.

Before discussing specific legislation, I would like to address the Administration's proposal to establish a permanent formula whereby future increases in veterans' compensation programs would be automatically adjusted by changes in the Consumer Price Index.

Historically, in the exercise of its oversight responsibility, Congress looks to the wisdom of the members of this committee to consider and report legislation to meet the needs of disabled veterans and their survivors.

This process has worked well in the past, and provides continuing reassurance to those veterans that each year their interest will be properly protected and not subjected to the perversity of the OMB budget axe.

This committee has before it for consideration a bill, H.R. 1084 which, if favorably considered, would provide an increase in VA disability compensation and dependency and indemnity compensation programs by 3.5 percent to be effective 1 December 1987.

The members of our association strongly support an increase in the compensation program benefits commensurate with the lost earning power due to the veterans' death or injuries.

Mr. Chairman, there is a pressing need for this committee to reconsider its position of an old law that requires military retirees who are also eligible to receive VA disability compensation, to have their retired pay reduced by the amount of VA disability compensation. This offset occurs even though the military retirement benefits are based on length of service and have no relationship to the purposes of VA compensation, which is the replacement of lost income due to illnesses or injuries incurred in the line of duty.

This unfair situation should be corrected now; the rationale is very straightforward; military retirement checks should compensate for length of service and should be the same as granted any other service member of the same rank for the same service. The other check from the VA should be paid to compensate for the physical pain and impairment represented by the disability for which the possible economic loss that may result from the physical handicap.

Members of our association strongly urge this committee to favorably consider amending H.R. 1084 to include the provisions of H.R. 303, which would authorize concurrent receipt of retired pay, for length of service, and VA disability compensation.

Most Federal programs; social security, civil service and military survivor benefit plans allow a widow to continue to be paid these annuities should they remarry after age 55. Our association members ask that similar provisions be incorporated in the VA Dependency Indemnity Compensation program by an appropriate amendment being added to the bill, H.R. 1084.

Mr. Chairman, there remains one other issue that we believe requires the early attention of this committee. Probably the greatest immediate crisis facing our Nation today or in the next decade is the rapidly-expanding population found to have contracted that

horrible, incurable disease, Acquired Immune Deficiency Syndrome, or commonly called AIDS.

There has been considerable publicity about the fact that during the period 1976 through 1984, blood, unscreened for the AIDS virus, was used from various blood banks, including that provided to military and veterans patients in hospitals administered by the Department of Defense and the Veterans Administration. Undoubtedly, some of that blood was contaminated.

Since the incubation period of AIDS can vary between 4, 5, and 10 years, it becomes difficult to determine if an individual may have contracted the disease while in service or made through the use of contaminated blood.

A fundamental question to be addressed is, what is the responsibility of the Veterans Administration to provide health care for veterans, their spouses and children, who may have contracted the disease from the veteran or military member.

Often in making determinations for dependency and indemnity compensation eligibility, the VA requires the individual veteran to have been 100 percent disabled for 5 years from time of discharge or 10 years continuously prior to time of death.

These criteria will not fit the dimensions of this disease.

That concludes my statement, Mr. Chairman. I will try to answer any questions.

[The prepared statement of Commander Wanamaker appears at p. 113.]

Mr. APPLEGATE. Thank you very much, Commander.

Mr. Partridge?

STATEMENT OF CHARLES C. PARTRIDGE, LEGISLATIVE COUNSEL, NATIONAL ASSOCIATION FOR UNIFORMED SERVICES

Mr. PARTRIDGE. Thank you, Mr. Chairman. I appreciate the opportunity to present the views of the National Association for Uniformed Services to this distinguished panel.

I would first like to discuss the 1988 budget proposal to index compensation and DIC to the Consumer Price Index. We, along with the other associations, strongly oppose that.

By long tradition and practice, the veterans' committees have reviewed veterans compensation programs each year and made adjustments based on consideration of a variety of factors. This system is working well, and we certainly would like to see it continue.

We also support enactment of H.R. 1084, which would provide a 3.5 percent increase in the rates of compensation and of DIC payments paid by the Veterans Administration.

We also support H.R. 1427, which would grant authority to pay benefits to a surviving spouse who was married to a veteran for less than 1 year. We believe this brings it in line with other provisions and strongly support it.

Another provision relating to DIC is an issue that we, for a long period of time, believe needs to be done; and that is in the H.R. 1547, which would allow the remarriage of a surviving spouse of a veteran after age 55 without termination of DIC.

Currently, the civil service, the foreign service and military survivor benefit plan surviving spouses may remarry after age 55 without losing eligibility for the benefit; and we believe this same provision should apply to DIC widows.

Another change regarding DIC rates which we believe would provide a more equitable and helpful means for providing support for DIC recipients, involves a method for computing the payment. The current method considers only the military pay grade for calculating the amount of compensation.

We believe that primary compensation of a fixed and minimum amount should be paid to all DIC widows. This base amount would then be adjusted with consideration given to pay grade, length of service, and conditions or circumstances leading to cause of death.

H.R. 303, which was introduced by Mr. Bilirakis, Mr. Bennett, and Mr. Mike Lowry, would permit veterans with service-connected disabilities, who are retired members of the Armed Forces, to receive disability compensation concurrently with retired pay without deduction from either, the same provision that Commander Wanamaker was speaking about.

Military retirees are the only category of veteran who must give up their retired pay in an amount equal to the compensation they receive from the VA. Veterans who retire from Federal and civilian employment, the U.S. Postal Service, and from state and local governments receive disability compensation and retired pay concurrently, and we believe the Armed Forces retirees should receive the same treatment.

And finally, Mr. Chairman, we support H.R. 1543 and H.R. 1544 to improve veterans' benefits for former prisoners-of-war.

Thank you very much for this opportunity.

[The prepared statement of Mr. Partridge appears at p. 121.]

Mr. APPLEGATE. Thank you very much, Mr. Partridge. We appreciate that, all of your statement.

And let me ask, Commander, you're the one, your organization appears to be the only one that has brought up the thing about AIDS.

Are there any AIDS cases that you know that have been service-connected, considered as service-connected.

Commander WANAMAKER. To my knowledge, in the first place, you've got to remember that most health records are confidential. The information, full information is not available, but I am aware of an individual case where a person had been contaminated while on active duty, and to that extent, I do know that they exist.

It brings up a point, Mr. Chairman, just if I may elaborate a little bit, suppose that individual took the disease home—and this was from blood administered by the military in this case—if he took the disease home to his wife, he may have also a dependent child or an infant child, and if the wife and the husband both lose their battle with this disease and end up dead—what happens to that child?

Is it the Veterans Administration or who is responsible to take care of that child?

Mr. APPLEGATE. That's a very good question.

This case that you're talking about is something that happened since 1977, 1976?

Commander WANAMAKER. I'll have to get all the details on it. I'll be glad to provide it for the record. Like I say, I know of the one case I've been told about,—I'm not familiar with all the details, but I know the situation exists.

[Information to be furnished appears at p. 123.]

Mr. APPLEGATE. Because I know that they had stated that it had come out in the news and medical reports that anyone having transfusions of any amount since 1976 should have a test taken, so that they would know. So that seems to be the time period. I'm not sure just how——

Commander WANAMAKER. But the thing of it is, we also bring up the point—to be eligible for a dependency indemnity compensation, there's a requirement to be 100 percent disabled for a period of 5 years from time of discharge or 10 years continuously prior to death. And that criteria doesn't fit this type of disease.

Usually the individual dies before 5 years. He may not even be 100 percent disabled. He may be well up to about a year before he dies. These are the kinds of things that are difficult and need to be addressed.

That's why in my statement I've asked for the committee to direct or have an independent agency or the VA conduct a study just to see what the dimensions of this disease are, and I'm sort of concerned in that here we have the budget proposed by the Administration before us for VA doctors, to get rid of surplus VA doctors, and I think that we may consider it necessary to have more doctors brought aboard.

This disease is very, very labor-intensive in the medical profession, and I don't think that we know the full dimensions of it, it may be that we need more doctors.

Mr. APPLEGATE. Well, I think that's very true, and we're going to get into it more. I mean, I think there are a lot of people that are probably losing their lives because of it that never knew they had it, because it's my understanding, you don't die of it; you die with it. But it's the cause—it's whatever else that the lack of the immune system, whatever it doesn't allow—it can be cancer, it can be heart, it can be pneumonia or any other number of things.

So it's good that you brought it up.

But let me ask you, too, because you and Mr. Partridge seemed to agree on the fact that there's a discriminatory practice in that, for your retirement and disability, that there is an offset.

Is there any—are there any figures available to you? Do you have any idea what it is that we're talking about, as far as a cost figure is concerned?

Commander WANAMAKER. I have some estimates, but I think that the Department of Defense could probably give you a better exact figure. But it's about a billion dollars a year, and it's a very expensive program. It would run close to a billion dollars a year.

Mr. PARTRIDGE. Yes, sir. Those are the same figures I have. But I think the problem should be studied to determine just how the payments should be made; to do it out right could be too expensive, but if it were studied, I believe some sort of arrangement could be made where it would be more equitable.

Mr. APPLEGATE. Okay. Well, I thank you all very, very much for appearing before the committee and giving us the value of your word and your testimony. It's very helpful. Thank you.

Commander WANAMAKER. Thank you, Mr. Chairman.

Ms. NAVE. Thank you, Mr. Chairman.

[Pause.]

Mr. APPLEGATE. The Chair would like to announce to those of you who are in the audience and the next panel that we are going to recess for a period of around 15 minutes, because there is right now a quorum call, and there will be a 5-minute vote, after which we will return, and we should be able to finish up hopefully before noon.

So we will reconvene at 11:30.

[Recess.]

Mr. APPLEGATE. Ladies and gentlemen, we welcome you to our committee, and we will have our fourth and final panel that will come to the table. That should just about encompass the whole audience.

We have Mr. Gordon Thorson, Special Assistant, National Legislative Service, Veterans of Foreign Wars; Mrs. Jean Arthurs, Director, Legislative Affairs, National Association of Military Widows; Mr. Paul Egan, Deputy Director of the National Legislative Commission; and Mr. Phil Wilkerson, Assistant Director, National Veterans Affairs and Rehab Commission, the American Legion, and Mr. Frank DeGeorge, Associate Legislative Director, PVA.

I don't think any of you are strangers to the committee, and it's always good to welcome you back to the table and listen to your input into some very important considerations.

I suppose as chivalry will have it—I always do—we will recognize Mrs. Jean Arthurs.

STATEMENTS OF JEAN ARTHURS, DIRECTOR, LEGISLATIVE AFFAIRS, NATIONAL ASSOCIATION OF MILITARY WIDOWS; GORDON R. THORSON, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION; PHILIP R. WILKERSON, ASSISTANT DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; AND FRANK R. DE GEORGE, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

STATEMENT OF JEAN ARTHURS

Mrs. ARTHURS. Thank you. You must know that I have to go to work.

Mr. Chairman and members of the subcommittee, I am Jean Arthurs, President of the National Association of Military Widows, and we thank you for allowing us to provide testimony here today.

We realize that over the years the work of this committee has benefitted a great number of our widows whose sponsors have served and died for our country. The members of this committee are to be commended for their concern for the individuals who are affected by this committee's decisions.

If you don't mind, I'm going to synopsize this a little bit.

We support H.R. 1084, which provides for a 3.5 percent cost-of-living increase in DIC compensation. Our surveys indicate that since the Vietnam War, a greater number of military widows rely on the DIC compensation as their only source of income. Again, we must say that in this time of Gramm-Rudman, we are most grateful that these veteran entitlements have been spared from the deletion of COLAs.

We favor H.R. 1427, which would restructure Title VIII by allowing the Administration to pay death benefits at DIC rates to the survivors of these servicemen who were totally disabled for 10 years prior to death. Our Association always has stood for equitable rights and privileges among all survivors of the Government services.

In regard to the Administration's proposal to index compensation and DIC COLAs, I have to tell you that we have reversed our position on that. My colleagues have enlightened me, and I have discovered that it would be better if we did not index the compensation.

In the economic realm of the widows, it is often considered a phenomenon as to how the cost-of-living index is computed in the first place. The cost of oil may be down, but i,n everyday living, inflation is constantly increasing. A recent survey indicates that rents have increased 6 percent each year for the last 4 years; transportation costs increase each year; and market basket items have climbed 18 to 36 percent in many categories. It was noted that a one-pound can of coffee has increased 80 percent in 3 years time.

Now we would like to discuss H.R. 412, which is Representative Roe's bill, and we are grateful to Representative Bilirakis for H.R. 1547, which would allow the DIC widows to remarry at age 55 and retain the DIC compensation. This is in keeping with the current status of all Federal survivor benefit plans. Social Security, RSFPP, the Military Survivor Benefit Plan, Civil Service, and the Foreign Service Plans allow the annuitant to retain the entitlement when she remarries at age 55.

It is simply incomprehensible to our Association that all other categories of widows of government services have been obliged with the remarriage after 55 factor, and still DIC widows are not so entitled.

One fact is certain. There is no widow that has given more for her country through the death of her sponsor than the DIC widows. So few widows have the opportunity to remarry in later years, so cost cannot be the contributing factor. In this day of high-cost catastrophic illness and lingering, it would be cost-effective for the Government if the widowed singles could remarry and care for one another in sickness and in poor health.

Surely this Congress has the compassion to pass H.R. 412 and H.R. 1547 and help the token number of DIC widows over age 55 to escape the loneliness of widowhood and live a respectable way of life.

Now we've got a couple of issues to bring up to you. We've noted that we're finding a number of military DIC widows who have not been properly apprised of the survivor benefit plan benefits accorded them October 1, 1980. At that time, the amendment was passed, S. 91, which awarded the SBP benefits to widows whose husbands

were eligible to retire, but who died on active duty before September 1, 1972.

Unfortunately, that was not made retroactive until 1980. Since that time, there has been no action taken to inform and officially notify the eligible recipients. None has been taken since. We keep finding these widows. They turn up, and it's quite a problem, they have been eligible—but not properly informed.

Our Association was informed through a Veterans Administration official that the matter could be solved quite simply. If so directed, a flyer could be inserted in the monthly DIC benefits check to clarify the law as passed in 1980.

The other thing I will get to quickly here is, several years ago at these hearings, Chairman Nicholas asked if our widows were receiving proper care at veterans' hospitals. As everyone knows, it's impossible for a widow to get into a veterans' hospital.

But since that time, we've had an increasing category of military widows, DIC widows, who have not been able to secure prescriptions or such there. I have been informed by Arnold Moon that where they've had proper I.D., they could be admitted to veterans' hospitals. Possibly it did not cover their outpatient care, which would mean that they could have their prescriptions filled.

So quickly I'll have to tell you about one of our widows. She writes as follows: "I was widowed at 25. My husband was 31 with 13 years of service. My husband was on active duty at the time of his death. I had a child born 3 months after his death. The only complaint I have is that the widow cannot use veterans' hospital facilities. We have a VA hospital one-half mile from our house, and I can't even get prescriptions filled there. The closest active duty hospital is 150 miles away. I feel that we should have the benefit of the VA facilities. The DIC for myself and four children—ages 15, 12, 11, and 6—is under $800. The VA takes all but $251 per month for our house payment."

The point of this is to let you know that here is this woman with all these kids, and she has arthritis very badly and needs medication, and the statute precludes her from getting care right across the street.

Another letter to this point: "The Veterans Administration reduced my pension to $5. It's not worth mailing to me. I am 63 years old. I can't afford Medicare, and I do need my medicine. My husband gave his life for this? Please, can your group help me?"

We have scads of letters of this nature. As the widow population ages, the pressure is building. But we hope with the enlightenment and judgment of this committee, some just and equitable treatment for these families can be found.

Thank you very much for allowing me to testify on behalf of the widows. I'll be glad to answer any of your questions.

Mr. APPLEGATE. Thank you very much, Mrs. Arthurs.

[The prepared statement of Mrs. Arthurs appears at p. 138.]

Mr. APPLEGATE. Any particular order? Frank, would you like to proceed?

STATEMENT OF FRANK DE GEORGE

Mr. DEGEORGE. Thank you, Mr. Chairman.

I certainly want to, on behalf of the members of the Paralyzed Veterans of America, take this opportunity to thank you and to present our views regarding the state of the legislation as introduced here today and above all for your continuing efforts and pursuits to improve the important programs that affect veterans and their dependents.

Mr. Chairman, your effort to introduce H.R. 1084 to provide a 3.5 percent cost-of-living increase for compensation and dependency and indemnity compensation payments, effective December 1, 1987, are consistent with your efforts of the past, which contribute to the historical intent of Congress to ensure that veterans, their dependents and survivors' benefits are provided for at an appropriate level of maintenance.

Again, thank you. You are commended for submitting the Veterans' Compensation Amendments of 1987, H.R. 1084, which in itself preserves the authority and the appropriations processes of the Congress to determine what is necessary and to provide cost-of-living increases to the Nation's veterans and again their dependents and survivors.

The Administration's proposed Fiscal Year 1988 Veterans Administration budget includes proposed legislation that would index compensation benefits to the annual change in the Consumer Price Index. The Administration contends that, if enacted, this proposal would guarantee a full and timely cost of living adjustment to compensation beneficiaries, including DIC spouses and children.

The Administration's proposal includes a similar cost-of-living increase currently estimated at 3.5 percent, effective December 1, 1987.

This legislative proposal to index compensation by the Administration is absolutely unacceptable to the Paralyzed Veterans of America. In fact, we will oppose it.

We believe it is an attempt to undermine and bypass the responsibility and authority of Congress. The COLA has required Congressional action annually, a process which PVA continues to believe ensures Congressional control and results in greater flexibility and fairness in a fluctuating economic climate.

Regarding H.R. 1427, PVA supports the language contained within, a bill which defines in its own section DIC benefits payable to eligible dependents when the veteran is not killed during active duty or does not die from service-connected disabilities, but has been rated totally disabled ten or more years immediately preceding death, or if rated for a lesser period of time, was rated totally disabled not less than 5 years from date of veteran's discharge.

The specific language and provisions of this bill are contained in current law with the caveat of changing "2 year" to "1 year," the amendment to the regulations. PVA therefore sees no reason to add a specific section within Title VIII for this bill—sees no reason why not to add a specific section within this bill—correction.

Regarding the dependency and indemnity compensation program which cares for the service-connected disabled veterans' survivors, I would like to take advantage of this opportunity to briefly reiterate PVA's longstanding position, which is that we remain discontented by the awarding of DIC benefits based on military pay grade rather than on the veteran's degree of disability.

I will not belabor our total concerns in this area, but make the point that we are and still remain concerned over the process, as PVA has long supported the need for an adequate survivor benefit program. The spouse and family members of certain eligible veterans, especially those catastrophically disabled, must be protected in the event of the veteran's death.

Instead, indeed, the Committee on Veterans' Affairs and Congress have demonstrated their mutual concern for these needs by passage of prior legislation, and again, however, PVA further believes that a periodic review of these programs is imperative.

Regarding H.R. 1543 and H.R. 1544, again PVA is supportive of the initiated and reintroduced bills by the Honorable Douglas Applegate, which will provide appropriate recognition to improve veterans benefits for former prisoners-of-war by amendment of Title 38, which is to add presumption of service connection for certain disabilities.

By virtue of amendment of Title 38, PVA applauds the consideration of the subcommittee to recognize the experiences of former prisoners-of-war. PVA believes, as members of this subcommittee do, that the services rendered by veterans who were former POWs can never fully be compensated by our grateful Nation, and we are in accordance with the purpose of H.R. 1543 and H.R. 1544.

Mr. Chairman, PVA wholeheartedly supports the favorable and expeditious passage of these measures.

Again, PVA appreciates the invitation to appear here today. We applaud the efforts of the chairman and the members of the subcommittee, as well as the full committee, to address these issues.

That concludes my statement, Mr. Chairman. Thank you.

[The prepared statement of Mr. DeGeorge appears at p. 144.]

Mrs. ARTHURS. Mr. Chairman, I don't mean to be impolite but could I please be excused? I teach piano and organ—I have little people that are waiting for me at my door step and I don't leave them there all by themselves.

Mr. EVANS [Presiding]. If you want to submit your statement for the record. Yes, you may be excused.

Mrs. ARTHURS. Yes. Thank you.

Mr. EVANS. Thank you very much for your time. Paul Egan?

STATEMENT OF PAUL S. EGAN

Mr. EGAN. Thank you, Mr. Chairman. Phil Wilkerson of our Veterans' Affairs and Rehabilitation Commission will summarize our statement but I would like to make just a couple of comments first of all.

We didn't raise the issue in our statement but we certainly concur with the Chairman and this committee's view in opposition to indexing compensation and in that connection, we would further urge the committee, recognizing that the budget committee's mark is 4.1 percent in terms of a COLA, that the committee consider adjusting the legislation to reflect a 4.1 percent COLA rather than 3.5 that is currently in the bill.

Mr. EVANS. I've been informed by counsel that we will be working on legislation that will reflect the final CPI change so we will do whatever is necessary to correct the legislation.

Mr. Wilkerson?

STATEMENT OF PHILIP R. WILKERSON

Mr. WILKERSON. Thank you very much.

The American Legion is appreciative of this opportunity to share its views with you on the several measures under consideration today. H.R. 1084, the American Legion supports the 3.5 percent increase in the monthly rates of disability compensation for service connected disabled veterans, additional compensation for dependents, the annual clothing allowance for certain disabled veterans and the rates of dependency and indemnity compensation for the surviving spouses and children as well as the rates of supplemental DIC for children.

Mr. Chairman, an increase in the monthly rates for these benefits was last provided under Public Law 99-576 effective December 1, 1986 at 1.5 percent. The delegates to the American Legion National Convention in 1986 adopted two resolutions that mandate the organization to support legislation to provide cost of living increases in these benefits.

The 3.5 percent called for by this bill appears to be consistent with the projected trend of the CPI Index for the remainder of 1987.

With regard to H.R. 1427, the proposal is to re-codify provisions currently contained in Section 1410 of the Title relating to DIC compensation benefits for survivors of certain veterans rated totally disabled at the time of death into new Section 418. This proposal would also reduce the period of time a surviving spouse would have had to be married to the veteran prior to death.

The American Legion has no objection to either of these proposals.

Before discussing the two legislative measures dealing with benefits for former prisoners of war, the American Legion wishes to state that we have been extremely supportive of the variety of measures over the years intended to address the immediate as well as long term consequences of the prisoner of war experience.

At the recently concluded 1986 National Convention, Resolution No. 331 was adopted, reiterating the Legion's policy on the presumptive disabilities for former prisoners of war. This resolution places the Legion in a position to support legislation to amend Section 312(b) of the title so as to expand the list of presumptive disabilities in the absence of demonstrable causes or injury to include hepatitis or infectious diseases of the liver, organic residuals of hypothermia, arthritis, peripheral neuropathy and chronic pulmonary disease. The resolution also mandates the Legion to support the amendment of Section 612(b)(1)(g) of the Title to reduce the period from 6 months to 30 days to be eligible for VA outpatient dental treatment.

With regard to the specific legislation, H.R. 1543 and H.R. 1544, the American Legion has no objection to the proposal contained in H.R. 1543 to include the terminology under the definition of a former prisoner of war to accord prisoner of war status to individuals forcibly detained or confined by any foreign government, its agents or hostile forces, whether during a period of peace time or

war, as long as the circumstances of such detention or confinement are found by the Administrator to be comparable to forced detention or confinement by enemy governments during periods of war.

With regard to the presumptive disability included in that measure as well as H.R. 1544, peripheral neuropathy due to trauma, the Legion has no objection to the inclusion of that specific provision.

However, with regard to the proposals of spastic colon, duodenal and peptic ulcers among these presumptive disabilities, although the American Legion is keenly aware that many former prisoners of war suffer from a variety of physical and mental disorders, some of which may directly affect or involve the gastrointestinal system, the broad language of both measures would provide a blanket presumption without establishing the necessary causal relationship between the current medical problem and the prisoner of war experience.

Furthermore, there is no requirement stated with regard to the symptomatology or diagnosis and for this reason, the American Legion would unfortunately not be able to support a change in the Title without additional descriptive information.

Mr. Chairman, that concludes my statement.

[The prepared statement of the American Legion appears at p. 151.]

Mr. EVANS. Thank you very much. Gordon Thorson, welcome back before the committee.

STATEMENT OF GORDON R. THORSON

Mr. THORSON. I realize that our entire written testimony will be made part of the record so I will summarize and get directly to the point of this hearing.

The VFW is in favor of H.R. 1084 as our organization clearly supports continued cost of living adjustments. H.R. 1427 appears only to change the length of time the surviving spouse must be married to the veteran prior to death to become eligible for DIC. We can find no reason to object to lowering the time period from 2 years to 1 year immediately preceding death.

We do suggest that this program could be further improved by extending this legislation to provide benefits to a surviving spouse who is married less than 1 year provided a child was born of that union.

H.R. 1543 and H.R. 1544 are both intended to improve veterans' benefits for former prisoners of war. The Veterans of Foreign Wars is long on record as supporting expanded POW presumptive disabilities along with being in favor of lowering the period of internment time needed to qualify for VA dental care. We continue in that position and support enactment into law of H.R. 1543 and H.R. 1544.

The final issue is the indexing of VA compensation and DIC cost of living adjustments. We believe that indexing would diminish congressional oversight of these programs. The Veterans' Affairs Committee and the entire Congress historically has been very fair and compassionate in addressing the needs of our Nation's Service connected disabled veterans and we foresee no benefit in substituting the personal congressional attention veterans now enjoy with

an automatic process. The VFW has much confidence in the House Veterans' Affairs Committee.

As experience has clearly demonstrated, your personal attention ultimately results in the provision of needed and ongoing program improvements. This hearing today is an example of that very oversight and improvement process.

For this reason, because we don't want veterans to be deprived of any of your personal attention, the VFW opposes the indexing of compensation and DIC cost of living adjustments.

Again, thank you for this opportunity.

[The prepared statement of Mr. Thorson appears at p. 158.]

Mr. EVANS. Thank you. There is strong bipartisan support for keeping the program on the current basis where we always review the COLAs and I believe we will continue to do that. We appreciate the testimony that you have all given today.

I don't have any questions. The Chairman may have had some questions. If he has, we will ask that you respond to them in writing and we will submit them to you and then you can respond to them.

Mr. EVANS. Thank you very much for your time today. The hearing is now concluded.

[Whereupon, at 12 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

APPENDIX

100TH CONGRESS
1ST SESSION

H. R. 303

To amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1987

Mr. BILIRAKIS (for himself, Mr. BENNETT, and Mr. LOWRY of Washington) introduced the following bill; which was referred to the Committee on Veterans' Affairs

JUNE 16, 1987

Additional sponsors: Mr. ST GERMAIN, Mr. FUSTER, Mr. MURPHY, Mr. LAGOMARSINO, Mr. DONALD E. LUKENS, Mr. MFUME, Mr. HAYES of Illinois, Mr. YOUNG of Florida, Mr. FAZIO, Mrs. BENTLEY, Mr. TOWNS, Mr. ROE, Mr. GARCIA, Mrs. VUCANOVICH, Mr. WATKINS, Mr. PEPPER, Mr. WORTLEY, Mr. DEWINE, Mr. DYSON, Mr. EMERSON, Mr FISH, Mr. MARTINEZ, Ms. KAPTUR, Mr. SAXTON, Mr. PORTER, Mr. NIELSON of Utah, Mr. LUJAN, Mr. WELDON, Mr. GINGRICH, Mr. JOHNSON of South Dakota, Mr. YOUNG of Alaska, Mr. HALL of Ohio, Mr. LEWIS of Florida, Mr. MICA, Mr. SUNIA, Mr. JEFFORDS, Mr. MCDADE, Mr. RAHALL, Mr. DORNAN of California, Mr. ANDERSON, Mr. FRANK, Mr. SHAW, Mr. SKEEN, Mr. BERMAN, Mr. DAVIS of Michigan, Mr. BEVILL, Mr. BROWN of California, Mr. BORSKI, Mr. PANETTA, Mr. HORTON, Mr. FROST, Mr. BEREUTER, Mr. DUNCAN, Mr. OBERSTAR, Mr. MCEWEN, Mr. BARNARD, Mr. AKAKA, Mr. DEFAZIO, Mr. ROWLAND of Connecticut, Mr. MAVROULES, Mr. JONTZ, Mr. WILSON, Mr. PACKARD, Mr. WHITTAKER, Mr. KENNEDY, Mr. RICHARDSON, Mr. CHAPPELL, Mr. HUTTO, Mr. HEFLEY, Ms. SNOWE, Mr. HOCHBRUECKNER, Mr. GALLEGLY, Mr. COELHO, Mr. WISE, Mr. BUSTAMANTE, and Mr. WOLF

A BILL

To amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3104(a) of title 38, United States Code, is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, emergency officers', regular, or reserve retirement pay may be paid to any veteran concurrently with compensation for any service-connected disability, without deduction from either the retirement pay or the compensation; however, nothing in this sentence shall permit payment of retirement pay and of compensation based upon the same disability.".

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STATEMENT OF

R. J. VOGEL

CHIEF BENEFITS DIRECTOR

VETERANS ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

APRIL 9, 1987

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this morning to present the views of the Veterans Administration on the following bills introduced in the 100th Congress, each of which would amend title 38 of the United States Code. H.R. 1084 would provide cost-of-living increases in rates of compensation and dependency and indemnity compensation (DIC), H.R. 1427 would make minor improvements to DIC, and H.R. 1543 and H.R. 1544 would improve benefits for former prisoners of war. As you are aware, the VA has reported to the Committee on H.R. 1084.

I am also pleased to discuss title I of the Administration's draft bill submitted to you on March 31, 1987, which, if enacted, would authorize automatic annual increases in the rates of disability compensation for veterans, and DIC for surviving spouses and children, based upon changes in the consumer price index (CPI).

H.R. 1084, if enacted, would authorize 3.5 percent cost-of-living increases in the statutory rates of these benefits for the same classes of veterans and survivors. The

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proposed rate adjustment is no doubt designed to assure that the beneficiaries of these benefits keep abreast of the steadily increasing cost of living. Title I of our draft bill, which would index compensation and pension COLA's, is designed for the same purpose, though the approach differs. Therefore I will discuss these measures together. Both propose an effective date of December 1, 1987, for the next cost-of-living increase.

Disability compensation benefits are payable under chapter 11 of title 38 to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated totally disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as may those ages 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

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The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed COLA's in Social Security and VA pension. However, these adjustments have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 99-576 (1986). Since 1973, legislation has been enacted every year but one (1983) granting increases in these benefits to compensate for increases in the cost of living. We have consistently supported these adjustments.

The Administration strongly supports COLA's based upon actual increases in the cost of living. However, we believe this may best be done by legislation that would provide for an automatic annual increase in compensation rates indexed to the periodic Consumer Price Index increases, as in the case of pension and a number of other governmental benefits. Tying compensation and DIC rates to the CPI would assure veterans and their survivors that they would receive full increases, commensurate with inflation, in a timely manner. It would also liberate Congress from the routine of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance, and provide time to more carefully review the intent and practice of this important program.

Accordingly, while we do support the concept of H.R. 1084,

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we feel, for the reasons stated above, that it should be amended to index future compensation and DIC COLA's to annual changes in the CPI.

We estimate the first 5-year cost resulting from enactment of H.R. 1084, as drafted, would be as follows:

Fiscal Year	Cost (millions)
1988	$ 305.9
1989	366.6
1990	365.7
1991	364.6
1992	362.6
Total (5 years)	$1,765.4

Based on the 3.5 percent COLA estimated for fiscal year 1988, and the projected changes in the CPI for fiscal years 1989 through 1992, and taking into consideration the 1.5 percent compensation/DIC increase effective December 1, 1986, it is estimated that automatic increases in compensation and DIC rates under title I of the Administration's draft bill would result in the following additional costs, which are included in the President's 1988 Budget.

Fiscal Year	Cost (millions)
1988	$ 301.0
1989	670.5
1990	1,050.8
1991	1,392.5
1992	1,694.1
Total (5 years)	$5,108.9

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There would be no significant administrative costs associated with H.R. 1084 or title I of the draft bill.

H.R. 1427 proposes changes primarily of a technical nature. Section 410(b)(1) of title 38 currently authorizes DIC, under specified conditions, to surviving spouses and children of veterans whose deaths were not service connected but who were continuously paid compensation for total service-connected disabilities for prescribed periods. Section 410(b)(2) provides for offset against such benefit of any amount the claimant may receive as judicial or other damages for the death of the veteran. H.R. 1427 would strike section 410(b) and move these provisions to a new section 418, "Benefits for survivors of certain veterans rated totally disabled at time of death."

H.R. 1427 would, however, make one substantive change. Section 410(b)(1) presently requires that, for this benefit to be payable to a surviving spouse, he or she must have been married to the veteran for at least two years immediately preceding the veteran's death. H.R. 1427 would change the marriage requirement so as to qualify a surviving spouse who "was married to the veteran for one year or more."

We do not support the substantive provision of this bill. Present law, at section 404(1), requires one year of

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marriage for eligibility for DIC where death is service connected. Because section 410(b) establishes a generous presumption conferring entitlement to DIC in cases of nonservice-connected death, there should be some higher standard required, i.e., the present two-year marriage provision. Otherwise, we have no objection to the technical amendments this measure would make. The effective date of H.R. 1427 would be October 1, 1987.

We are unable to estimate the cost of H.R. 1427, if enacted, but do not believe it would exceed $1 million annually.

H.R. 1543 and H.R. 1544 would enlarge veterans' benefits eligibility for former prisoners of war.

If enacted, H.R. 1543 would add "spastic colon" to the list of those medical conditions for which service connection may be presumed if manifested to a compensable degree, at any time following service, by veterans who were prisoners of war for at least 30 days. H.R. 1544 would add that and the conditions of "peripheral neuropathy due to trauma" and "peptic or duodenal ulcers." Both bills would reduce, from six months to ninety days, the period of time that a former prisoner of war would have had to have been held captive to qualify for VA-furnished treatment for a dental condition or disability. Both bills carry a proposed effective date of October 1, 1987.

H.R. 1543 would also make a minor change in the language of 38 U.S.C. § 101(32)(B), the result of which would be to

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authorize the Administrator to recognize POW status for certain servicemembers who were held during wartime by other than enemy governments. Current law gives the VA this discretion only during peacetime. We are aware that a number of American servicemen were interned by the Soviet Union during World War II, when that nation was our ally against the Axis powers. The amendment in H.R. 1543 would permit us to deem such individuals as former POW's, if we found the conditions of their detention comparable to other POW experiences. We support this change.

Mr. Chairman, other than the provision just discussed, we have reservations about the enactment of H.R. 1543 and H.R. 1544. Several general observations are appropriate, however, before I get into specifics.

Initially, I want to make clear that an expansion of the list of presumptive diseases, as now proposed, would have only a minimal effect on the VA's current adjudicative practices. There are two reasons for this. First, in the case of POW's the conditions identified in the bills ordinarily would become manifest and require treatment upon repatriation or shortly thereafter, and so typically service connection can be and is recognized on a "direct" basis following a review of available medical evidence. Second, VA policy is to treat claims of former POW's in a liberal manner, giving special consideration to the hardships and privations they have endured and, of course, resolving any reasonable doubt in their favor. We thus believe there is no need for a statutory presumption for disabilities in addition to those already listed at section 312(b) of title 38.

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On the other hand, we are mindful that some cases do not fit the norm. In particular, we are aware of the realities of the repatriation process and the initial tendency of many ex-POWs to put aside their traumatic experiences. This, in turn, can result in a lack of sufficient evidence to substantiate a claim filed some years later. We believe, therefore, that this legislation could serve as a "safety net" for some ex-POWs, facilitating grants of service connection well after service in some deserving cases.

In evaluating H.R. 1543 and H.R. 1544, it is well to keep in mind that the statutory presumption is not conclusive but rather rebuttable in nature. In a particular case, it may be overcome by evidence of record establishing that the condition claimed is unrelated to service. Thus, we believe there is little likelihood that spurious claims for service connection would be granted.

Our principal reservation concerning both measures involves the incorporation of "spastic colon" and "peptic or duodenal ulcers" as presumptive diseases at this time. Spastic colon, preferably known as irritable bowel syndrome, is a functional disorder as to which the etiology and pathogenesis are unknown and the diagnosis is subjective, often made by exclusion. Because it is a somewhat vague diagnostic entity, we believe blanket legislation to presume service connection is inappropriate. Similarly, peptic or duodenal ulcer is a condition as to which we are unaware of any substantive medical justification for presuming service connection in former POW's. Indeed, there was discussion

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at the last meeting of the Advisory Committee on Former Prisoners of War indicating a lack of valid scientific support for its inclusion in the list of presumptive diseases.

The third disorder proposed to be added to the presumptive disease list is "peripheral neuropathy due to trauma." Our concern is that such disability would likely have been identified in or shortly after service, and that a presumption is unnecessary. We recognize, however, that the Congress enacted a presumption for traumatic arthritis last year, so a precedent has been established for this type of amendment.

In our view, the bill's proposed amendment relating to dental treatment for former POWs has questionable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned at least six months. We believe that the qualifying period of internment now proposed, i.e., ninety days, may not be scientifically supportable. We think it highly unlikely that, even in circumstances of incarceration, dental/oral pathology could develop and become irreversible in a period of ninety days. Although our dental professionals acknowledge such development is conceivable, we essentially believe no scientific case has been made for statutory change, nor has a mandate emerged from the POW Advisory Committee in favor of this amendment.

We estimate that, for this expanded dental-care eligibility, first-year costs would approximate $280 thousand and five-year costs would approximate $1.25 million. The additional

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presumptive diseases for POW's would probably generate less than $1 million in annual costs.

Mr. Chairman, considering the reservations we have expressed, we do not support enactment of H.R. 1543 or H.R. 1544.

I would be pleased to address any questions the members of the Subcommittee may have.

Opening Statement

HONORABLE MICHAEL BILIRAKIS

Subcommittee on Compensation, Pension and Insurance

April 9, 1987

THANK YOU, MR. CHAIRMAN.

LET ME FIRST SAY HOW DELIGHTED I AM TO BE SERVING ON THIS SUBCOMMITTEE THIS YEAR. I LOOK FORWARD TO WORKING WITH YOU AND OUR COLLEAGUES ON PRESERVING THE INTEGRITY OF THE COMPENSATION, PENSION AND INSURANCE PROGRAMS WHICH ARE SO IMPORTANT TO THE NATION'S VETERANS.

I THINK IT IS PARTICULARLY FITTING THAT WE WILL BE CONSIDERING LEGISLATION TODAY WHICH IMPROVES THE BENEFITS AVAILABLE TO FORMER POWS SINCE THE PRESIDENT HAS DECLARED TODAY NATIONAL FORMER POW RECOGNITION DAY.

I WAS A COSPONSOR OF YOUR BILL, MR. CHAIRMAN, H.J.RES. 155, WHICH ALSO SOUGHT TO HONOR FORMER POWS ON THIS SPECIAL DAY. NEXT TO BEING AN MIA WITH THE FEELING YOUR GOVERNMENT HAS DESERTED YOU, I CAN'T IMAGINE A WORSE EXPERIENCE FOR A MILITARY MAN OR WOMAN THAN BEING A POW.

MY FEELING IS THAT EVERY POW SHOULD BE GRANTED SPECIAL MEDICAL CARE STATUS BY THE VA. WE CAN'T JUST PAY LIP SERVICE TO THE IDEA OF TREATING POW CLAIMS FOR BENEFITS IN A "LIBERAL" MANNER. THE PRIORITY WE GIVE OUR FORMER POWS MUST BE A FACT.

THEREFORE, MR. CHAIRMAN, I INTEND TO SUPPORT YOU, AND OUR RANKING MINORITY MEMBER, MR. MCEWEN, IN MOVING LEGISLATION TO EXPAND THE LIST OF PRESUMPTIVE CONDITIONS FOR FORMER POWS.

WHILE I DO NOT WANT TO TAKE UP MUCH OF THE SUBCOMMITTEE'S TIME AND I AM ANXIOUS TO HEAR FROM OUR DISTINGUISHED GROUP OF WITNESSES, I DO WANT TO TAKE A FEW MOMENTS TO CALL TO THE ATTENTION OF SUBCOMMITTEE MEMBERS A PIECE OF LEGISLATION I HAVE INTRODUCED WHICH IS QUITE RELEVANT TO TODAY'S TOPICS OF DISCUSSION.

MY BILL, H.R. 1547, WOULD AMEND TITLE 38, USC, TO PROVIDE THAT REMARRIAGE OF THE SURVIVING SPOUSE OF A VETERAN AFTER AGE 55 SHALL NOT RESULT IN TERMINATION OF DEPENDENCY AND INDEMNITY COMPENSATION.

I WAS CONSIDERING TESTIFYING ON BEHALF OF THIS LEGISLATION AT TODAY'S HEARING BUT DECIDED IT WOULD BE FAIRER TO SUBCOMMITTEE MEMBERS IF I POSTPONED MY FULL PRESENTATION UNTIL A CBO COST ESTIMATE ON THE BILL IS AVAILABLE.

I HAVE ALREADY REQUESTED CBO TO COMPILE SUCH AN ESTIMATE, AND I INTEND TO PRESS AHEAD WITH H.R. 1547 WHEN THAT INFORMATION BECOMES AVAILABLE.

AS MANY OF YOU KNOW, THE CIVIL SERVICE SURVIVOR BENEFIT PLAN AND THE MILITARY SURVIVOR BENEFIT PLAN HAVE BEEN AMENDED IN RECENT YEARS IN A SIMILAR FASHION.

I THINK IT IS A WONDERFUL THING IF AN OLDER PERSON FALLS IN LOVE AND DECIDES TO MARRY, AND I DON'T THINK WE SHOULD BE DISCOURAGING SUCH MARRIAGES BY MAKING THEM FINANCIALLY BURDENSOME. FOR THOSE MARRYING AFTER AGE 55, IT IS OFTEN THE CASE THAT BOTH PARTNERS ARE LIVING ON FIXED INCOMES. THE PROSPECT OF ONE PARTNER LOSING FINANCIAL BENEFITS AS A RESULT OF THE MARRIAGE IS A REAL DISINCENTIVE. IN FACT, PRESENT LAW MAKES IT VIRTUALLY IMPOSSIBLE FOR SOME COUPLES TO MARRY AFTER AGE 55 BECAUSE THEY SIMPLY CANNOT AFFORD TO DO SO AND CONTINUE TO SUPPORT THEMSELVES.

MY BILL MAKES A SIMPLE CHANGE THAT COULD MEAN A GREAT DEAL TO THOSE WHO FIND THEMSELVES IN THIS PREDICAMENT AND I HOPE MY COLLEAGUES WILL JOIN ME IN SUPPORTING THIS CHANGE WHEN WE HAVE ALL THE FACTS BEFORE US.

THANK YOU, MR. CHAIRMAN.

STATEMENT OF
JOHN F. HEILMAN
NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
OF THE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
April 9, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the over one million members of the Disabled American Veterans and its Ladies' Auxiliary, may I say that we deeply appreciate being given this opportunity to present our views on legislation relating to the service-connected disability and death compensation programs of the Veterans Administration.

H.R. 1084

Mr. Chairman, the provisions of H.R. 1084 -- introduced in the House by yourself, Mr. McEwen, Full Committee Chairman Montgomery and Ranking Minority Member Mr. Solomon, and all members of the Subcommittee -- would authorize a 3.5% across-the-board increase in basic disability compensation and DIC (service-connected death) benefit rates. The same percentage rate of increase would also be extended to the dependency allowances and, with one exception, to the special statutory awards and ratings that apply to the compensation and DIC programs, as well as to the VA's annual clothing allowance, payable to certain service-connected veterans whose prosthetic or orthopedic devices cause unusual damage to clothing.

The proposed increases carry an effective date of December 1, 1987, and, according to Congressional Budget Office (CBO) estimates, would require $317 million in Budget Outlays during Fiscal Year 1988.

To put it in more meaningful terms, Mr. Chairman, the benefit increases would range from a modest $24 per year ($2 dollars monthly) for a veteran with a 10% service-connected disability to $564 more per year ($47 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to a service-connected disability.

Mr. Chairman, in consideration of an increase in VA disability and death compensation benefits, it is important to recall the principle upon which these programs were established:

> Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earning capacity caused by a service-connected disability. DIC benefits, on the other hand, are intended to provide a measure of financial security to surviving spouses and children of veterans whose deaths are attributable to a service-connected disability.

Over the years, this Subcommittee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising costs of goods and services. The most recent adjustment of these rates authorized by Public Law 99-576 represented the 13th consecutive year that your Subcommittee has taken action on this most important issue.

I do wish to make special note of the fact that in its provisions, H.R. 1084 does not propose to increase the "k" award as set forth in Section 314(k), Title 38, USC. This is a special monthly benefit -- presently $63 dollars -- paid in addition to the basic rates of compensation of certain veterans who have incurred a service-connected loss or loss of use of a single extremity or certain other body organs and functions.

This particular award has only been infrequently included in prior compensation bills over the years, although it was increased (by one dollar) last year to its present amount by Public Law 99-576. We therefore ask the Subcommittee to include the "k" award in any compensation bill that it may recommend to the Full Committee.

Mr. Chairman, with the concern noted above, the DAV does support favorable consideration of the disability compensation/DIC adjustments proposed by H.R. 1084.

Having stated that, we also state -- as we have done in recent years -- our willingness to pose no objection should the Congress decide, for the economic well-being of our nation, that the cost of living adjustments (COLAs) in all federal programs should be foregone or subject to delay in Fiscal Year 1988. As members of the Subcommittee are well aware, disabled veterans have been and continue to be willing to do their fair share for America.

However, in view of the fact that such a decision on the part of the entire Congress is not likely to materialize, we urge the Subcommittee's favorable recommendation of H.R. 1084 to the Full Committee.

H.R. 1427

This measure, introduced by yourself, Mr. Chairman, and cosponsored by Mr. McEwen and by Full Committee Chairman Montgomery and Ranking Minority Member Mr. Solomon, proposes to recodify certain provisions of current law relating to benefits for surviving spouses and children of certain deceased totally disabled service-connected veterans.

Under current law -- Section 410(b), Subchapter II of Chapter 13, Title 38, USC -- benefits in the same manner payable for a death held to be related to a service-connected disability are extended to the surviving spouses and children of certain veterans who, at the time of death, were:

1. continuously rated totally disabled, due to service-connected disability, for a period of ten or more years immediately preceding death; or

2. if so rated for a lesser period, were so rated continuously for a period of not less than five years from the date of such veteran's discharge or release from active duty.

Mr. Chairman, as indicated above and with one minor exception that I shall discuss in a moment, H.R. 1427 proposes to take the existing Section 410(b) statutory language and place it in a new section of Chapter 13, such new section being designated as Section 418, Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death.

It is our understanding this change is deemed appropriate in order to emphasize that benefits paid under current Section 410(b) -- which shall continue to be paid under the proposed new

Section 418 -- are extended under criteria separate and apart from a "normal" award of Dependency and Indemnity Compensation benefits.

We have no objection to this recodification of current language.

Mr. Chairman, the minor exception, noted above, that would be made in the recodification of current Section 410(b) statutory language relates to the definition of a surviving spouse as follows:

Current Section 410(b) language defines a surviving spouse as one that "...was married to such veteran for not less than two years immediately preceding such veteran's death...." The proposed recodification language to be placed in the new Section 418 would define a surviving spouse as one that "...was married to the veteran for one year or more."

Mr. Chairman, we support this liberalization in the definition of the term "surviving spouse" as it places such definition in a more compatible position with that which currently defines DIC spouses, as set forth in Section 404, Title 38, USC.

In fact, Mr. Chairman, in accordance with a resolution approved by the delegates to our organization's most recent National Convention, we urge the Subcommittee to consider further modification of the term, so that a "spouse" as defined by the proposed Section 418 language would be identical to the criteria now set forth in Section 404.

So amended, Mr. Chairman, the DAV strongly supports favorable action on H.R. 1427.

H.R. 1543 and H.R. 1544

Mr. Chairman, you have placed on the hearing agenda two bills which propose liberalization in VA benefits and services for former prisoners-of-war: H.R. 1543, introduced by yourself, Mr. McEwen, Full Committee Chairman Montgomery and Ranking Minority Member Mr. Solomon; and H R. 1544, introduced by yourself and Mr. McEwen.

In combination, these two measures propose:

(1) a clarifying modification in the definition of "former prisoner-of-war" (H.R. 1543);

(2) addition of the conditions of traumatic peripheral neuropathy (H.R. 1544), spastic colon (H.R. 1543 and H.R. 1544) and peptic or duodenal ulcers (H.R. 1544) to the list of diseases now considered to be service-connected when diagnosed to a compensably disabling degree in former prisoners-of-war; and

(3) a reduction from six months to 90 days in the length of POW incarceration required for eligibility to VA outpatient dental care services.

Mr. Chairman, the Subcommittee is well aware of the "unique" nature of a POW experience and the great difficulty former POWs -- especially those of World War II -- have had and continue to have in establishing claims for service-connection of conditions related to their period of incarceration. This realization, of course, is the basis for the special considerations that are now offered to former prisoners-of-war under Section 312(b), Title 38, USC.

Last year, with the strong support of the DAV and after being favorably recommended by this Subcommittee and the Full Committee, your colleagues in the House gave approval to a measure (H.R. 4333) that incorporated several of the above cited liberalizations of law. Unfortunately, they were not accepted by the Senate. We commend the Subcommittee for its persistence in again addressing these issues, for they are of great importance to our nation's 83,000 living former prisoners-of-war. We do urge that the proposals contained in the two pending bills be favorably acted upon by the Subcommittee.

* * *

Mr. Chairman, you have also requested our views on the Administration proposal which seeks to automatically "index" future adjustments in VA service-connected and death compensation benefits.

We are adamantly opposed to this proposal, for we regard it as nothing more than a thinly veiled attempt on the part of the Office of Management and Budget (OMB) to inhibit Congressional oversight of the VA's disability and death compensation programs.

As far as the DAV is concerned, decisions to adjust service-connected disability and death compensation benefits should remain firmly in the hands of the Veterans Affairs Committees and the Congress. Not only is the Congress, led by the Veterans Affairs Committees, eminently qualified to determine what, if any, adjustments should be made in these benefit levels, but the annual oversight and scrutiny that accompanies such considerations has, over the years, resulted in meaningful program improvements that otherwise would not have been forthcoming.

No, Mr. Chairman, we do not want the programs of compensation and DIC to be placed on "the back shelf," for that is what would occur under the Administration proposal. We are aware that you and the members of this Subcommittee and the Full Committee are of the same opinion and we deeply appreciate your desire to continue your firm and unfettered guardianship of the entitlements of our nation's service-connected disabled veterans, their dependents and survivors.

This completes my statement, Mr. Chairman. I do thank you for the opportunity to present the views of the DAV on these most important issues.

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THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

"STRENGTH IN UNITY"

STATEMENT OF

RICHARD W. JOHNSON, JR.

Director of Legislative Affairs

before the

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

on

COMPENSATION PROGRAM IMPROVEMENTS

April 9, 1987

The Non Commissioned Officers Association of the USA (NCOA) is grateful for this opportunity to comment on several measures under consideration by the committee to improve the veterans' disability and Dependency and Indemity Compensation programs. Among the proposals being reviewed are H.R. 1084 to provide a 3.5 percent increase in compensation and DIC benefits; H.R. 1427, a bill to recodify law pertaining to the payment of certain DIC benefits; H.R. 1543 and H.R. 1544, bills to improve benefits for former prisoners of war (POW's); and, an unnumbered administration proposal to provide automatic increases in compensation and DIC benefits based upon measured increases in the Consumer Price Index (CPI). In addition, NCOA will take this opportunity to comment on the structure of the DIC program and the concurrent receipt of non-disability military retired pay and veterans disability compensation.

H.R. 1084

The centerpiece bill today is H.R. 1084 which has NCOA's full support. If adopted the bill will provide an average 3.5 percent cost-of-living increase in veterans' compensation and survivor benefits effective December 1, 1987. Such an increase is necessary to offset the depreciation in compensation benefits caused by inflation. This measure will preserve the purchasing power of veterans' compensation and survivor benefits.

H.R. 1427

This measure replaces section 410(b) of current law with a new section (418) which more clearly states the circumstances under which DIC payments will be made to the surviving spouse or child of a veteran who was totally disabled for several years prior to death. The bill also reduces the requisite length of the marriage from two years to one year for DIC eligibility. Such a change is consistent with the language currently contained in section 404 pertaining to other surviving spouses. The bill has NCOA's full support.

H.R. 1543, H.R. 1544

Improvements in POW benefits are the subject of H.R. 1543 and H.R. 1544. The first bill reduces verbage in current law pertaining to the Administrator's discretionary authority for designating certain groups as POWs. It also adds spastic colon to the list of maladies presumed to be service connected for the purpose of compensating former POW's. The second bill adds three maladies to the list of conditions presumed to be service connected. They are peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers. Both bills also reduce the qualifying period of detention for dental care from six months to 90 days. NCOA suggests the consolidation of the proposals into a single bill, however, both measures have NCOA's full support.

INDEXING

While NCOA once supported the concept of providing automatic cost-of-living adjustments in compensation and DIC benefits based on measured increases in the CPI, the association has since come to recognize the deficiencies in such a system. Foremost, NCOA is concerned about the future of indexing in all federal benefit programs. Additionally, the association is concerned that indexing will relieve Congress of the need to review the program annually thus diminishing the attention devoted to keeping the program current and responsive to veterans needs. Accordingly, NCOA opposes indexing.

DIC REORGANIZATION

The current benefit structure of the Dependency and Indemity Compensation program is, in NCOA's opinion, inadequate and inequitable in meeting the obligations of government in providing support for the surviving spouses of veterans who die while in service or from service connected disabilities. It is the only veterans benefit based on military rank, a measure which has little relation to death and disability or indemnity obligations to survivors.

Take for example, the case of PFC Jones. Jones was permanently disabled by a rocket propelled grenade in Vietnam in 1970. A quadriplegic since his injury, Jones died of circulatory problems in 1985. At the time of his death Jones was receiving disability compensation of nearly $3,000 per month which constituted his family's only income. Upon his death benefits for his wife and child were reduced to less than $600 per month. Those benefits were based on Jones' service as an 18 year old PFC, 15 years prior to his death, and bore no relationship to the degree or duration of his disability or the suffering of his family.

Yet while rank should not be a qualifier it would be unfair to compensate a surviving spouse on the basis of degree of disability. It would be an egregious mistake to compensate the widow of a totally disabled veteran at a higher rate than the surviving spouse of another veteran when both deaths were related to service incurred disabilities. Even need is an inadequate measure for determining indemity compensation. If need were a consideration the current system would be a real travesty since the largest benefits now go to measurably more self sufficient and highly educated surviving spouses according to the last major DIC study.

Since NCOA first raised this issue nearly ten years ago, many people have searched for proposals to make DIC payments more equitable. Some suggest leaving the current system in place for active duty deaths and creating a similar system based on degree of disability for post service deaths. The problems with this proposal are already evident since they perpetuate the inequities of the current system.

NCOA believes the only reasonable solution is to compensate all deaths equally. A flat rate system is the only equitable answer. Look back at PFC Jones. Had he been a lieutenant, a colonel or even a general his disability compensation would have been exactly the same. His medical care, education benefits, etc., would all have been the same. Even his headstone would not change. But survivor compensation changes significantly and without reasonable justification.

NCOA urges the committee to commission a Congressional Budget Office or General Accounting Office study of average monthly death compensation benefits in the DIC program and other similar programs to determine a reasonable flat rate amount. Such studies should also comment on the desirability of providing adjustments in monthly benefits based on years of military service or duration of disability to determine if such payments are warranted. Eventually, NCOA believes legislation should be enacted to implement the flat rate DIC program at benefit levels developed by such a study.

CONCURRENT RECEIPT

Concurrent receipt of non disability military retired pay

and veterans' disability compensation is an area which need no study to identify either inequity or solution. Under current law retired military personnel who are determined by the VA to have a service connected disability must waive a portion of retired pay equal to the veterans compensation they are eligible to receive. No other group of veterans must make such pay forfeitures. Veterans who become federal employees make no similar pay forfeiture. In fact, military retirees who subsequently combine their years of federal military and federal civilian service for a single civilian annuity don't have to make such a forfeiture because of a quirk in the law. Only people who have given more than twenty years of honorable service to their country are ineligible to receive a full entitlement of retired pay and disability compensation. Concurrently, the military services avoid payments of slightly more than $1.2 billion to about 280,000 military retirees who have waived all or part of their retired pay to receive veterans' compensation.

Mr. Chairman, NCOA extends commendation to Mr. Bilirakis for the leadership he has demonstrated in seeking equity on this issue. His bill, H.R. 303 will resolve the problem. The association also extends its thanks to Mr. Gray for sponsoring similar legislation to correct this inequity. NCOA urges the committee to adopt one of these proposals.

Thank you.

Statement of

Michael A. O'Malley
Deputy National Service Director

AMVETS

Before the

Subcommittee on Compensation, Pension and Insurance
House Veterans' Affairs Committee

U.S. House of Representatives

on

H.R. 1084, H.R. 1427, H.R. 1543, H.R. 1544

April 9, 1987

Mr. Chairman, members of this Committee, the American Veterans of World War II, Korea and Vietnam (AMVETS) appreciates this opportunity to express its views relative to providing a 3.5 percent cost-of-living increase for Compensation and DIC (H.R. 1084); making minor improvements to DIC (H.R. 1427); providing improved benefits for former Prisoners of War (H.R. 1543 and H.R. 1544) and finally, the Administration's proposal to index Compensation and DIC COLAs.

AMVETS supports a 3.5 percent increase to the Compensation and DIC programs. We ask this Committee to recall last year's increase which also started out at 3.5 percent but was eventually signed into law at 1.5 percent. Further, we note this years proposed increase does not apply to the rate payable under 38 U.S.C. 314(K) which is Special Monthly Compensation based upon anatomical loss or loss of use of an extremity or other anatomical or sensory parts of the body. This particular Special Monthly Compensation is a definable disability no less than those identified under 38 U.S.C. 314(L) thru (P). We request therefore, service-connected veterans receiving benefits under 38 U.S.C. 314(K) not be excluded within the construct of H.R. 1084.

AMVETS has no objection to the technical change incorporated in H.R. 1427. We support the provision changing the marriage requirement from two years to one year. We ask further consideration

be given to allow for recognition of the surviving spouse if a child were born regardless of the length of the marital relationship. Such consideration would, we believe, be consistent with other provisions dealing with the establishing of a marital relationship between a surviving spouse and a veteran for the purposes of payment of Dependency and Indemnity Compensation.

H.R. 1543 and H.R. 1544 both essentially deal with improvements for those who have established POW status. We agree with H.R. 1543's exclusion of the phrase "during a period other than a period of war in which such person was held". We recognize this to be a technical correction which places peacetime and wartime veterans on equal footing with regard to internment by non-combatant nations.

We support inclusion of the three additional presumptive disabilities contained in H.R. 1544, as our research indicates such residual disabilities can be reasonably associated with the hardship and trauma encountered by POWs.

Mr. Chairman, both H.R. 1543 and H.R. 1544 address the Internment Period Required for VA Dental Care. We respectfully suggest conformance to the Department of Veterans Benefits definition of POW (38 U.S.C. Section 312(b)) would, rightfully, establish a thirty-day period, not the ninety-day period as proposed.

There must not be two definitions of POW: one for compensation, the second for dental treatment. Certainly, if thirty days is sufficient to provide for a presumption of service-connection for a disease, it should be equally sufficient to provide for dental treatment.

Lastly, with regard to the Administration's proposal to Index Compensation and DIC COLAs, we urge this Committee to reject such action. We hold legislation of this nature to be contrary to the spirit and intent of that Congressional mandate on which the Veterans Administration was founded.

Thank you Mr. Chairman, for allowing me the opportunity to present the views of AMVETS regarding H.R. 1084, 1427, 1543, 1544 and the proposal to index Compensation and DIC COLAs.

STATEMENT BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

COMMITTEE ON VETERANS' AFFAIRS, U.S. HOUSE OF REPRESENTATIVES

BY

W. CURTIS MUSTEN, SR., NATIONAL COMMANDER

AND

CHARLES A. STENGER, PhD, CONSULTANT ON LEGISLATIVE AFFAIRS

AMERICAN EX-PRISONERS OF WAR

WITH RESPECT TO

H.R. 1543 AND H.R. 1544

BILLS TO IMPROVE VETERANS' BENEFITS FOR

FORMER PRISONERS OF WAR

WASHINGTON, D.C. APRIL 9, 1987

Chairman Applegate and Distinguished Members of the Committee

The American Prisoners of War Association has come before this Committee on behalf of former POWs a number of times in the recent past. We again thank you for the opportunity to do so today.

We are deeply grateful for the consideration and compassion the Committee has always shown to POWs and their enduring physical and psychological problems. We are even more grateful for the legislative action that has followed.

All POWs have benefited from the health care services authorized by PL 97-37. This landmark legislation also defined a POW; established basic eligibility for dental care if held captive for more than 6 months; reduced the time in captivity required for eligibility to 30 days for specified presumptive conditions; and added anxiety states to this list.

The Committee, through PL 98-223 subsequently added Depressive Neurosis to the presumptive list. This disorder, along with psychosis, anxiety states and post-traumatic stress disorders, effectively assures that any POWs suffering from long-term psychological consequences should be able to receive needed benefits.

The problem of determining what physical residuals should similarily be made presumptive has been more complex. We were heartened by the unanimous conclusion of the VA POW Advisory Committee (also mandated by PL 97-37) that the starvation, deprivation and brutality universal to the POW experience could adversely damage any body system. This conclusion recognizes that, in addition to the immediate physical consequences made presumptive many years ago, long-term residual damage could be expected. The Advisory

Committee was mindful of the accumulation of knowledge worldwide validating this conclusion as well as the supporting opinion of every recognized expert in this area!

The Advisory Committee also concluded that VA adjudication procedures entirely appropriate for veterans as a whole did not result in fair and equitable decisions for POWs. VA policies to liberalize the adjudication of POW claims were found to be fine in concept but simply do not work in practice. Even in thos rare instances where they did, excessive delays were involved before favorable adjudication action occurred. Not infrequently, the POW dies before the proce s is completed.

This distinguished Congressional Committee recognized these factors last year. The enactment of PL 99-576, effective October 1, 1986, was the result. Like PL 97-37, it is also a landmark legislation on behalf of POWs since it is the first to add specific long-term physical consequences to the presumptive list. Residuals of frostbite and traumatic arthritis, the two conditions added to the presumptive list, were common, unavoidable, physical injuries occurring in the POW experience. Their inclusions on the presumptive list will at last enable POWs to obtain service connection for these disabling conditions.

Our concern, Mr. Chairman, is that equally deserving POWs suffering from other long-term physical consequences will continue to be denied needed benefits. We are grateful to see the introduction of H.R. 1543 and H.R. 1544 since both bills address this problem to different degrees.

We testified before this Committee on June 5, 1986 with respect to H.R. 4333, and a year earlier, on June 19, 1985,

with respect to H.R. 864. Both of these bills sought to add additional medical conditions to the presumptive list including those contained in H.R. 1543 and H.R. 1544.

Substantive evidence has been presented in this previous testimony and we will not burden the Committee with a detailed repetition of that information today. However, we would ask that our earlier statements, with respect to discussions of specific disease entities, be considered a part of our testimony today.

We would also call to your attention that, in testimony provided on June 5, 1986, with respect to H.R. 4333, Mr. Grady Horton, Deputy Chief Benefits Director, indicated VA would not oppose the enactment of this bill which would add spastic colon as well as residuals of cold injury and traumatic arthritis to the presumptive list. Mr. Horton also testified that VA supported the reduction from 6 months to 90 days the period of time that a POW would have to have been held in captivity to qualify for VA dental care.

We were gratified that VA did not oppose this legislation but, in all candor, we find Mr. Horton's statement that any additions to the presumptive list are "largely unnecessary" wholly inconsistent with the facts. The follow-up information provided to your Committee last year at Congressman Solomon's request fully validated our contentions that the "liberal policies" are simply not resulting in favorable adjudication action. Other VA data taken from three SIRS reports provides further evidence. For example, the first report from October 1, 1981 to June 1, 1985 reveals only 372 original (new) awards were made for <u>all</u> POW claims.

This report category was dropped from the following two updates!

The second update, to March 1, 1986, showed an actual decrease in the total number of POWs receiving compensation over the preceding 9 months of 1.7%. Overall this data reveals a total decrease of 5% from October 1, 1981 to March 1, 1986. The third update, to January 1, 1987, no longer contains the total number of POWs receiving compensation so the percent of decrease can no longer be computed. However, a continued downward trend can be expected.under current adjudication practices.

It is true that 12,000 POWs have died during the period October 1, 1981 to January 1, 1987, but it is also true that 22,000 have gone through the rating process in that period of time. Nearly 17,000 completed the comprehensive POW protocol examination. SIRS Data reveals that the only diagnostic category reflecting substantial improvement involves psychiatric disorders—all made presumptive by previous legislation. Over 41% of all service-connected disabilities granted or increased since October 1, 1981 are in this area. Very few new awards were made with respect to physical disabilities, but some already service-connected conditions may have been increased.

Additional evidence that VA rating practices of POW claims are anything but liberal is reflected in the latest SIRS report. It show that 43% of all service-connected conditions in POWs are rated at the 0% percent level and 33% at the 10% level. Thus, fewer than 25% of all service-connected disabilities are rated at more than a token level!

The bottom line is less than 40% of the 80,000 POWs are service connected for <u>any</u> conditions whatsoever even though the latest SIRS report acknowledged it found more than 91,000 disabilities that were denied service connection!

Attached is an analysis that reveals this situation exists even at the very highest level of adjudication action. That report by Dr. Stenger concerns appeals of POWs he represented before the Board of Veterans Appeals. It indicates that two major VA policies designed to assure POWs fair and equitable evaluation of their claims and appeals are not properly implemented. In fact, BVA openly states that it is not bound by these VA policies with respect to POW claims even though they have have been presented in VA testimony before this Committee.

Mr. Chairman, we stress this dismal record of actual VA rating practices to set the record straight. We do it to support our contention that only by expanding the presumptive list will POWs long denied service connection for service-related physical disabilities be able to receive fair and equitable treatment.

However, we do want to state in an equally clear manner that we feel VA's efforts on behalf of POWs in the health care area have been extensive and beneficial. When deficiencies are identified, concerted efforts are made to correct them. POWs deeply appreciate VA's continuing efforts to make its health care services effective in practice as well as in policy. We would welcome a similar determination on the benefits side. Policies that are not implemented, or cannot be implemented, in practice do not serve POWs in a fair and equitable manner no matter how "liberal" those policies seem to be.

Mr. Chairman, with these comments as background, we would now like to make some brief remarks on items contained in H.R. 1543 and H.R. 1544.

First, we feel the original definition of a POW contained in PL 97-33 is an entirely satisfactory and practical one. However, we have no objection to striking out "during a period other than a period of war in which such person was held" if the definition continues to be limited to those serving in the armed forces at the time of capture by hostile forces.

Second, Spastic Colon as discussed in our testimony of June 5, 1986 is a well-defined condition in the medical literature even though the pathogenesis is not well understood. It is a functional disorder—that is, without manifest pathology, but is is very real and disabling. The symptoms are also well known and "recurrence is the rule". The physiological conditioning of the gastrointestinal tract in POWs is believed to result from a combination offactors including extended dependence on coarse or improper food substances, prolonged diarrhea or dysentery, and continued exposure to extremes of temperature. Stress is very frequently present under these circumstances as well, but it is incorrect to consider this condition then or later as simply a somatic manifestation of an emotional disorder. In fact, the reference cited states "cholinergic agents are more potent in producing the colonic hyperactivity.

We strongly support the addition of spastic colon to the presumptive list as a separate and distinct medical condition.

Third, the reduction of the length of the internment period required for VA dental care from 6 months to 90 days is

well supported by scientific data and expert opinion. VA testimony of June 5, 1986 also supports this change, stating "some circumstances if incarceration could result in irreparable damage in a period of 90 days.

The final months of WWII were particularly extreme in this respect. For example, while the 24,000 captured during the Battle of the Bulge were confined for slightly less than 6 months, they were held under extreme conditions of malnutrition and exposure. Chronic diarrhea was inescapable, further depleting the nutritional intake of their starvation diets. A Swiss Delegation inspection of one camp noted 32 Battle of the Bulge POWs died of starvation between Feb. 28 and April 1, 1945, described many others as "scarcely able to get up", and further noted "the majority of men were absolutely broken in spirit, crushed and apathetic— asked for food like beggars."
We support and endorse this proposed change without reservation.

Fourth, peripheral neuropathy due to trauma. We refer the Committee to our testimony of June 19, 1985 on this matter. However, we would like to call your attention to a very recent study at VAMC Livermore on this condition published in the February 1987 edition of the VA Practitioner. That study of 32 POWs of the Japanese and 20 POWs of the Germans found 28 of the former and 9 of the latter had current neurological findings of persistent peripheral neuropathy. Electrodiagnostic studies also confirmed the presence of chronic neuropathy in all but one case. All of the European POWs had a history of cold injury, and all but two had a history of forced labor and malnutrition. The conclusion was made that cold-induced neuropathy resulted in both axonal and demyelination changes in nerve tissue, with malnutrition and exhausting forced labor also important factors.

Nutritional deficiences and exhausting physical activity characterized the Japanese POWs, but cold injury was also a common problem. The study also was able to rule out other factors present in three POWs as causative to the type of peripheral neuropathy found in each of them. The study also concluded that there was no significant relationship between pattern of peripheral neuropathy and age or duration of imprisonment of former POWs. Put simply, it was found in POWs irrespective of age and how long they were held captive! This study only adds to the overwhelming evidence that peripheral neuropathy is a persistent problem in POWs due to the traumatic insult to their bodies from malnutrition, cold injury, and exhaustive forced labor.

We strongly support the addition of peripheral neuropathy due to trauma to the presumptive list. In doing so, we believe that "trauma" should be understood to include that caused by malnutrition, cold injury, or extreme physical exertion, i.e., forced labor and/or prolonged marches.

Fifth, peptic or duodenal ulcers. We refer the Committee to our testimony of June 19, 1985 and June 5, 1986 on these conditions. We also call your attention to a carefully controlled clinical study reported in The Medical Journal of Australia for July 8, 1985 that has recently come to our attention. The major finding of that study was that 40 years later the POW sample of 170 showed 25% had ulcers, 2-1/2 times as great a rate as their matched combat controls! The Canadian studies done some years ago had similar findings.

Dr. Harold C. Morris at Loma Linda VAMC concluded from his clinical study of POW Protocol Examinations that 25% of Far East POWs showed peptic ulcers or their residuals. Almost all early examinations of POWs for these conditions in military

and VA facilities involved brief clinical examinations and less frequently radiology. These methods were inferior to the use of endoscopy, a later emerging technique now in general use.

Dr. Mark L. Chapman, Assistant Clinical Professor of Gastroenterology at Mt. Sinai Hospital School of Medicine, was utilized by BVA for an independent expert opinion on a POW claiming service connection for a peptic ulcer. In addition to his specific detailed opinion that the physical deprivation and psychological stress suffered as a POW might certainly have contributed to the chronic peptic ulcer disease (which he described as "not a curable disease"), he noted "the ulcer often returns." He commented that "very often X-ray studies are highly inaccurate in locating the presence of duodenal ulcers in particular." He acknowledges that even in 1986 the cause of peptic ulcer disease is not completely understood but notes that there is a higher incidence rate in POWs.

We strongly recommend the addition of peptic ulcer disease to the presumptive list. Not only data but also expert opinion, including that of the VA POW Advisory Committee, support the conclusion that its occurrence (and recurrence) in a POW population is not at all unexpected. The common history of malnutrition, stress and physical deprivation suffered by POWs, and the clinical history of prolonged gastrointestinal problems during (and after) confinement, is such that including peptic and duodenal ulcers on the presumptive list is fully warranted.

Lastly, we note that today, April 9th, is the anniversary of a tragic and fateful day for thousands of American troops. It is the day our forces on Bataan were surrendered to the

Japanese. It was the beginning of a terrible ordeal in which many Americans died and all who survived bear the destructive scars on their bodies and minds. This year, by Congressional action and Presidential concurrence, April 9th is declared National POW Recognition Day.

We are grateful that our nation, through your action, still recognizes today the terrible sacrifice of POWs more than 40 years ago. We believe it reflects an inherent recognition that a tragic price is still being paid in damage to physical health and psychological well-being.

We, therefore, believe this is the time for favorable action. Increasing age and deteriorating health has diminished the ability of many POWs to face ongoing health and family responsibilities. The number dying each year continues to grow. Those POWs who would benefit from this legislation have waited a very long time. Their cause is just and expanding the presumptive list is the only viable option. We urge your support.

THANK YOU.

Statement of

Dr. Charles S. Prigmore, National Legislative Officer
American Ex-Prisoners Of War

For

Subcommittee on Compensation, Pension, And Insurance
Committee On Veterans' Affairs
U.S. House Of Representatives

On

H.R. 1543 and H.R. 1544

April 9, 1987

Mr. Chairman, I am submitting this statement primarily for the record, since our National Commander, Mr. W. Curtis Musten, will provide verbal testimony to the Subcommittee.

First, I wish to thank the Chairman and Ranking Minority Member, The Honorable Douglas Applegate and The Honorable Bob McEwen, for their leadership and interest in reintroducing H.R. 1543 and introducing for the first time H.R. 1544, and for holding this hearing so promptly. We in the American Ex-Prisoners of War have been extremely fortunate to have such compassionate and dynamic leadership heading up this subcommittee.

Second, I wish to summarize the way in which we have approached the development of this small but important legislative agenda. We have met repeatedly with the staff of the House Veterans' Affairs Committee, and with the staff of the Senate Veterans' Affairs Committee. We talked with the Administrator of the Veterans Administration General Thomas Turnage, and with Associate Deputy Administrator for Congressional and Intergovernmental Affairs, Mr. Burt Talcott. We have made every effort to keep the legislation specifically related to the POW experience, and have kept our request modest and inexpensive. The Congressional Budget Office considers the cost of H.R. 1543 and H.R. 1544 to be not significant.

H.R. 1543 can be considered in a very few words. It passed the House of Representatives unanimously in the 99th Congress, and we applaud your putting the two elements (spastic colon and reduction of the requirement for dental care from six months to 90 days) before the 100th Congress.

H.R. 1544 includes not only the presumptive condition of spastic colon and the reduction in time for dental care but also includes two new presumptions: peptic or duodenal ulcers, and peripheral neuropathy due to trauma.

The case for peptic or duodenal ulcers is supported very well by an Australian follow-up study of ex-prisoners of war. The incidence of ulcers, particularly duodenal ulcers, was clearly related to the ex-POW experiences of malnutrition, anxiety, poor and inadequate hygiene, and psychological and physiological stress.

Trauma is associated with most POW experiences. We covered injuries to joints resulting from trauma in the legislation passed in the 99th Congress, specifically relating to traumatic osteoarthritis. We've also covered trauma resulting in psychological stress in P.L. 97-37, and in the subsequent additional presumption concerned with dysthymic disorder or depressive neurosis in P.L. 98-223.

But sometimes repeated blows can damage the peripheral nerves. In those instances, there should be service connection, whether the injury results in pain or in loss of function.

As the Legislative Officer of the American Ex-Prisoners of War for the past two years, I have been greatly impressed by the dedication shown by the Subcommittee on Compensation, Pension, and Insurance to legislation affecting ex-POWs. Recently, it was your initiative that led to the passage of H.J.R. 155, establishing April 9, 1987 as the Former POW Recognition Day.

I am certain that you will give every consideration to the approval of H.R. 1544, which would also encompass H.R. 1543.

Thank you for the opportunity to submit this brief statement.

MAJOR INCONSISTENCIES BETWEEN VA POLICIES CONCERNING POW CLAIMS AND BOARD OF VETERANS APPEALS DECISIONS ON THOSE CLAIMS IN 1986

Charles A. Stenger, PhD
American Ex-Prisoners of War

The Veterans Administration has promulgated definitive policies concerning POW claims. These have been formalized in announced policies, internal guidelines and explicit commitments to Congress with respect to certain recommendations made by the POW Advisory Committee. However, the Board of Veterans Appeals specifically states in its written decisions on individual POW claims that it neither accepts nor is bound by those policies.

Specific examples of these inconsistencies will be provided in the following paragraphs. They are based on VA and BVA sources that will be cited. They refer only to 1986 BVA decisions on individual POW appeals.

The Board of Veterans Appeals in its 1983 publication of appeals, regulations and rules of practic states "the Board is bound by the regulations of the VA, instructions of the Administrator, and precedent opinions of the General Counsel".

On January 3, 1986, DVB reissued in more specific language instructions to its adjudicators for processing POW claims. Contained in M21-1, Change 415, paragraph 50.80c, entitled "Rating Claims Based on POW Status", the following points were made:

> "...it is necessary the Government prove the disability was not incurred in service before service connection can be denied. Accept the veteran's statement...as proof of actual occurrences of the condition in question if residual disability is noted which can be attributed to the service incident."
>
> "In many POW claims there is a paucity or complete absence of records of treatment or diagnosis of disease or injuries during the confinement period. If disabilities are first diagnosed after service, give special attention to the veteran's POW experiences in determining the relationship of such disabilities to service. Consider both the duration and circumstances of the veteran's imprisonment as well as pertinent medical principles in these determinations."

The BVA decision of October 22, 1986 in the appeal of Billy D. Kaats (C 9 794 422) is typical of BVA treatment of this issue.

> "Veteran Administration Manual M21-1 is not regulatory. It is, essentially, an interpretation of laws and regulations by the VA Department of Veterans Benefits."

In other POW appeals where this Manual reference is cited, the BVA decision simply dismisses this as "not binding", BVA simply does not accept the word of the veteran when service records are lacking, even when consistent with known circumstances of captivity, medical principles and even very precise buddy statements.

It is called to your attention that similar language concerning this same issue is cited in numerous places in the 1980 VA "Study of Former Prisoners of War" published under the direction of the Administrator. It has been cited by VA to Congress and other bodies as evidence of the VA's policies to assure POWs with inadequate or no medical records fair and equitable treatment. It seems entirely inappropriate for BVA to reject this as not binding when it clearly reflects the intent of the Veterans Administration—and of many Administrators—to follow this policy. It seems both wrong and indefensible for BVA to reject this policy as not binding simply because it may not technically conform to other "instructions" of the Administrator.

A second example of BVA's failure to follow the intent of the Administrator involves a recommendation made by the POW Advisory Committee in its 1983 report to Congress. Recommendation #8 states:

> "that claims adjudicated prior to the use of the examination protocol should be reopened on the request of the claimant with the examination considered new and material evidence."

The Administrator, in his cover letter of Sept. 2,1983 forwarding the POW Advisory Committee report to Congress stated:

> "We concur. We are in the process of identifying claimants who have not received favorable ratings since PL 97-37 became effective. These claimants will be contacted by the regional offices regarding reexamination. In addition, any individual POW who currently reopens a claim will be examined under the new protocol."

It is called to your attention that the POW Advisory Committee was fully aware that any veteran could always reopen any previously denied claim or appeal on the basis of " new and material evidence". Their recommendation was based on recognition that a comprehensive medical examination would, for the first time, provide an indepth and integrated medical assessment of the POW in perspective of the captive experiences he suffered. This would permit a "fresh look and a de novo evaluation.

Despite this clear intent to provide a de novo review of any denied

claim or appeal for POWs completing the special POW protocol examination developed by DMS, BVA decisions on individual POW appeals specifically state the following:

> "the fact that a prisoner of war protocol examination has been conducted does not mean that a case may be decided on a de novo basis in the strict sense. In other words, the fact that such an examination may be conducted does not mean that prior unappealed decisions may be ignored'" (Kaats decision, see earlier reference)

This position by BVA seems completely inconsistent with the intent of the POW Advisory Committee and the acceptance of that recommendation by the Administrator. The BVA interpretation completly negates that intent even though it is well known that few POWs prior to the protocol examination ever had the thorough medical evaluation necessary to a truly fair and equitable original assessment of their medical problems in the light of their POW deprivations.

In summary, these cited inconsistencies between VA policies and BVA practices do have an unfortunate and destructive impact on POWs who believed VA would now assure them a fair and equitable evaluation. The sole reason for the BVA to exist is that it is to correct any deficiencies that might have occurred at a lower level, doing so in in a manner consistent with the intent of VA—and the Administrator—regardless of the technical manner in which that intent was communicated. It is clearly not fulfilling that role in the case of POWs.

Attachment: M21-1, Change 415, paragraph 50.80c

50.7kc
50.80c

(Recent Instruction to VA Adjudicators Regarding POW Claims

50.80 RATING CLAIMS BASED ON PRISONER OF WAR STATUS

If a former POW files a claim alleging service connection for a disability incurred just prior to internment or during confinement, it is necessary the Government prove the disability was not incurred in service before service connection can be denied. Accept the veteran's statement as to wounds or injuries incurred just prior to internment or while confined as proof of actual occurrences of the condition in question if residual disability is noted which can be attributed to the service incident. Although 38 CFR 3.304(e) is intended to be given liberal application, there must be a reasonable basis for establishing service connection. Intercurrent diseases or injuries would generally obviate a relationship between disabilities claimed and the POW experience, as provided by 38 CFR 3.307(d).

EXAMPLE: The veteran has degenerative arthritis of the left knee and alleges trauma to the left knee shortly before capture. Service medical records are negative. If the first appearance of the arthritis was at an age earlier than would be anticipated, a reasonable basis for the granting of service connection exists.

a. **Absence of Records.** In many POW claims there is a paucity or complete absence of records of treatment or diagnosis of diseases or injuries during the confinement period. If disabilities are first diagnosed after service, give special attention to the veteran's POW experiences in determining the relationship of such disabilities to service. Consider both the duration and circumstances of the veteran's imprisonment as well as pertinent medical principles in these determinations. A special medical and social history of the POW experience shall be obtained at the time of examination, and made a permanent part of the veteran's records. Review the protocol history in order to gain insight and understanding of the factors affecting the veteran's internment as a POW. See paragraph 22.06a(2) for procedures to obtain POW debriefing records and 22.06b as to the requirement for a social survey.

b. **Presumption of Service Connection.** The conditions set forth in 38 CFR 3.309(c) are subject to presumptive service connection for former POW's confined 30 days or more. If any of these conditions becomes manifest to a degree of 10 percent or more at any time after service, service connection is in order. It follows that any conditions which are recognized by accepted medical principles to be secondary to any of the conditions listed in 38 CFR 3.309(c) are likewise subject to presumptive service connection.

c. **No Specific Disability Claimed.** Symptoms presented by the veteran may be the result of the POW experience, or of the diseases subject to presumptive service connection, even though the veteran has not alleged a specific disability. For example, the chronic residuals of nutritional deficiency can present themselves in a variety of complaints. Be alert to this possibility and ensure that examinations are complete and comprehensive. If it is unclear whether a condition is a residual of the POW experience, submit the claim to Central Office (212A) for an advisory opinion.

STATEMENT BEFORE THE

COMMITTEE OF VETERAN'S AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

BY

ALBERT J. BLAND, DIRECTOR

AND

PAUL REUTER, ADJUTANT

AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC.

WITH RESPECT TO HR 1544

A BILL TO IMPROVE VETERAN'S BENEFITS FOR

FORMER PRISONERS OF WAR

WASHINGTON, D.C. APRIL 9, 1987

STATEMENT BEFORE THE
COMMITTEE ON VETERAN'S AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
BY
ALBERT J. BLAND, DIRECTOR
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AMERICAN DEFENDERS OF BATAAN AND CORREGIDOR, INC.
WITH RESPECT TO HR 1544
A BILL TO IMPROVE VETERAN'S BENEFITS FOR
FORMER PRISONERS OF WAR

WASHINGTON, D.C. APRIL 9, 1987

Mr. Chairman and fellow members of the House Committee on Veteran's Affairs, the American Defenders of Bataan and Corregidor appreciate the opportunity to testify on behalf of HR 1544, a bill which would amend Title 38, United States Code, to improve veteran's benefits for former prisoners of war.

This April 9th is the 45th anniversary of the fall of Bataan and the beginning of 42 months of Hell, Starvation, Beatings, Hell Ships and the infamous Death March. The Japanese did not defeat this group of gallant men. It was disease, lack of fire power, air support and above all food and medicine.

The Former Prisoner of War Benefits Act of 1981 (PL-97-37) was a godsend to the former POW's and the former POW's will remain eternally grateful to this Committee for the strong and compassionate it has shown in favor of the POW's. That legislation opened up the doors of the VA health care system to many ill and desperate former POW's.

However, with all these laws there is more legislation needed to expand the presumptives list to include the additional presumptives listed in HR 1544. We may have to return to you if studies recommendation by the EX-POW Advisory Board, and the National Academy of Sciences - National Research Council analysis of these latest studies proves it necessary. This latest study should be released this year.

Perepheral Neuropathy

This condition was know to be prevalent during captivity as a result of nutritional deficiencies and damage to tissue and nerve-endings due to cold injury. This is common condition to many of the ETO former POW's that were on the marches between December 1944 and APril 1945.

This condition is also one that VA cites in VA Pamphlet 27-82-1 Rev. June 1984, page 2, item three quote,

"Diseases of nutritional deficiency such as beriberi, pellagro, avitaminonis, optic atrophy, and perepheral neuropathy associated with malnutrition."

Spastic Colon

The gastro-intestinal tract was one of the worst affected systems. Almost without exception all POW's suffered from diarrhea, dysentery, anoebic dysentery and even cholera. At times we would suffer from several types of diarrhea concurrently. Camp hygiene was of the upmost importance and in places like the Far East and on the marches in Germany were hard to police. The latrines were of pit type or a trench and as a rule, some distance from our sleeping area. As the result of the frequency of bowel movements and the great urgency associated with it, the area around the surrounding ground was fouled. A significant number, however, have continued to experience an embarassing and disabling degree of these symptoms.

Establishing Spastic Colon disorders as a presumptive condition is fully warranted by the total picture, supported by treating physicians, in and out of VA and urgently needed by former POW's.

Peptic or Duodenal Ulcers

Mr. Chairman, peptic or duodenal ulcers studies that were done by the Australian doctors in the July 8, 1985 Medical Journal of Australia, Morbidity in EX-Prisoners of War of June 1985, indicate Duodenal Ulcers and Strongyloides were more prevalent in the EX-POW's group than in the Non-POW group.

In the report to Australian Medical Journal it was found the only statistically significant difference in gastrointestinal illness since the War was in the occurrences of Duodenal Ulcer which is 2.5 times higher among POW's than Non-POW veterans.

It also must be noted that in the study conducted under PL 744, 83 D Congress page 42:

V Conclusions and Recommendations

A Referring to NRC-VA Study

(1) "the Chronic conditions ------

"gastronintestinal disorders"

The same report stated that those who reported having a peptic ulcer during the War, 83% had a peptic ulcer diagnosed or had undergone surgery for peptic ulcer since the war. Twenty-five percent of former POW's had one or more admissions to hospital for gastric disease (almost all because of duodenal ulcer compared with 14% of non-POW's).

Congressional action to make this a presumptive condition is a fair, justifiable and reasonable solution, and we so endorse it as contained in HR 1544.

Dental

We would like to refer to the VA testimony on HR 4333 in which they stated,

"Granting elegibility for full dental benefits to this group of former POW's would bring the scope of dental benefits more in alignment with existing medical benefits which are currently offered to the group of Veterans."

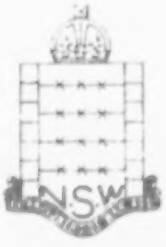
Congressional action to make this change from 180 to 90 days is a fair, justifiable and reasonable solution, and we recommend it.

Mr Chairman, in closing, this proposed legislation which you introduced, will do much to help former POW's with respect to those disabling conditions known to both treating and research professiunal of their captive experience.

Thank you.

I

MORBIDITY
of
Prisoners Of War



The P.O.W. Association of Australia

MORBIDITY IN EX-PRISONERS OF WAR

by

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JUNE 1985

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MORBIDITY IN EX - PRISONERS OF WAR.

In June 1983 figures obtained from the Department of Veterans' Affairs revealed that there were 12,500 ex - POW surviving in Australia from all areas of conflict. Of these 8,300 were prisoners of the Japanese POW (J). 3,000 were prisoners in Europe, POW (E) and 32 were prisoners in Korea POW (K).

In September 1982 the N.S.W. Ex - Prisoners of War Association established a panel to help survivors with claims for war-caused disabilities in the belief that many Veterans were reluctant to make any claim, many were incapable of presenting adequately their disabilities in claim form and many had expressed complete dissatisfaction with the lack of understanding and tolerance of their diverse problems by Departmental Medical Officers both in the past and more presently. It was apparent very early to the panel, that there was also a great lack of knowledge of the problems facing these Veterans, especially at the general practioner level.

Many of the doctors were not even born in 1939 and, as a consequence, are unable to understand fully the problems facing these Veterans.

It is important to realise that POW had huge psychological problems to overcome:

(1) Following the trauma of battle was the shock of capture.

(11) They had to adapt to a completely different way of life, deprived of freedom for an indefinite period, cut off from all sources of news, little if any mail from home.

(111) They lived under appalling conditions, often working very long hours, doing very arduous and frequently hazardous work while suffering from starvation, malnutrition as well as chronic and recurrent disease.

(iv) There was the ever present language and culture problem and the prisoners were at the mercy of cruel, vindictive and unpredictable guards.

(v) There was no leave and they were in contact with the enemy 24 hours a day, seven days a week, for a period of years.

(vi) They were again subject to the pressure of battle when bombed and strafed by our own people.

(vii) After being repatriated home they had the tremendous shock of adapting to a way of life that had changed greatly during the period of their captivity. These stresses were common to all POW but it must be realised that <u>every man had a different war</u> in the way he reacted to the enormous stresses to which he was subject. The stresses suffered by prisoners differed only in degree.

With all this in mind, the panel surveyed 1,937 ex-POW by means of:

(i) An Australian wide questionaire as to the present health of Ex - POW. Stringent rules were laid down and it was necessary for claims to be documented, many of the claims being filled in by their own doctors or being accompanied by medical certificates.

(ii) A great deal of use was made of Departmental records.

(iii) In addition, over 600 men were interviewed personally by the panel.

The full details of the study were sent to the relevant authorities in Australia, United Kingdom, New Zealand and U.S.A. Copies of this study can be obtained from the Department of Veteran Affairs, Canberra.

POW (E) were compared to POW (J) being two groups of POW.

The panel is still active and have now interviewed over 1,000 ex-POW. We are of the opinion that, in spite of the greater number seen, the percentages of the morbid figures do not differ significantly from the figures already submitted to the Department. We also believe that these figures err on the conservative side.

ALIMENTARY SYSTEM

The gastro- intestinal tract was one of the worst affected systems. Almost without exception all prisoners suffered from diarrhoea be it from a non-specific infection, bacillary dysentery, amoebic dysentery, pellagrous diarrhoea and even cholera At times they would suffer from several types of diarrhoea concurrently. Camp hygiene was of the utmost importance and in places in Burma and Thailand, almost impossible to police The latrines were of the pit type or a trench and as a rule, some distance from the huts. As the result of the frequency of defaecation and the great urgency associated with it, the great fatigue of the men who had to work very long hours on the Railway and their profound weakness due to malnutrition and chronic illness, the surrounding ground was fouled. In some camps, during the wet season, corduroy paths had to be built through the camp lines to the hospital and latrines.

Our survey of survivors revealed that as a result of the privations suffered, gastric ulceration is to be found in 7.5% of both POW (E) and (J) and duodenal ulceration is present in 17% of survivors from both theatres of war. Some 25% of both groups suffer from chronic indigestion.

After 40 odd years, chronic diarrhoea is still present in 14.5% POW (E) and 23% POW (J), many with at least some degree of incontinence, this being most marked in POW (J)

Strongyloides infestation affected at least 13.5% of POW (J) with a much higher incidence in those who worked on the Burma /Thailand Railway. It must be stressed that all POW (J) survivors should be thoroughly checked for this condition both clinically and in the laboratory.

4.

This should be mandatory by all doctors dealing with POW (J). The creeping eruption of strongyloides has been seen by the panel but had not been correctly diagnosed by their local doctor. Some 9% of both groups suffer from diverticulosis.

Diseases of the liver are common in both groups with a diagnosis of cirrhosis being made in 0.36% of POW (J) only, hepatomegaly being reported in 0.43% and non-specific liver disease in 2.21% POW (J) only.

Prolonged malnutrition and starvation would have caused a lot of cellular liver damage. Studies at the Repatriation General Hospital Concord, have revealed that a significant number of POW (J) have hepatitis B antibodies which suggest that viral hepatitis was common in POW (J) camps. Perhaps arboviral infections contributed. POW of both groups have reported increased incidence of cholecystitis and pancreatitis.

Carcinoma of the alimentary tract is reported as follows: mouth in 0.12% POW (J) only, pharynx in 0.05% POW (J), oesophagus in 0.06% POW (J) only, stomach in 0.32% POW (E) and 0.12% POW (J) and in the pancreas 0.12% POW(J) only. There is a relative increase in the incidence of carcinoma of the bowel to 1.04% in POW (J) as compared to 0.32% POW (E). This is not surprising in view of persistent diarrhoea in the former both before and after imprisonment

CARDIO - VASCULAR SYSTEM

After years of deprivation, returning prisoners were given extra rations of butter and meat. Well meaning friends and relatives fed them large meals containing high fat levels and it is not unreasonable to suppose that the sudden increase of lipids and proteins circulating in the blood stream, resulted in the development of atherosclerosis in blood vessels possibly damaged by malnutrition and avitaminosis and thus causing premature cardio-vascular disease.

It is accepted that a sudden increase of fat and protein in the diet is an important factor in the development of atheromatous deposits.

If one accepts stress as one of the causes of coronary artery and cerebro - vascular disease there is ample evidence of it in POW in both theatres. Reference to the opening paragraphs will demonstrate this. See also the addendum.

Some 28% of all POW now have hypertension needing treatment.

Some 13.22% POW (E) and 26.18% POW (J) are suffering from ischaemic heart disease or have suffered an infarct.

Some 2.90% POW (E) and 8.23% POW (J) have chronic myocarditis.

Some 4.19% POW (E) and 7% POW (J) have suffered a cerebro-vascular accident.

Some 0 32% POW (E) and 1.04% POW (J) have been diagnosed as suffering from cerebral atrophy.

Some 5% of both groups suffer from peripheral vascular disease.

DERMATALOGICAL SYSTEM

The skin seems to have recovered fairly well. The main lesions causing trouble are those caused by solar exposure.

In the desert, men were exposed to the sun for long periods of time whilst in Asia, men had to work for very long periods almost completely exposed to the sun and wearing very scanty clothing. There was little shade in most prison camps and certainly none when working on the Burma/ Thailand Railway, or on aerodrome construction.

As a result, 17.41% POW (E) and 31.40% POW (J) have either hyperkeratoses or basal cell carcinoma or both Some 0.96% POW (E) and 2 15% have been treated for squamous cell carcinoma. 0.49% POW (J) have been treated for melanoma.

It is necessary to mention here that Department for Veterans' Affairs is very reluctant to accept hyperkeratoses or basal cell carcinoma as being war caused, especially if prior to enlistment the Veteran was a farmer or stated that his hobbies were surfing

6.

or swimming, maintaining that it took at least 15 years for these lesions to develop. However, many Veterans have had such lesions treated just a few years after discharge. It is reasonable to suppose that the skin in men suffering from severe malnutrition and avitaminosis would be more vulnerable than normal healthy skin when exposed to sunlight for long periods.

Strongyloides is a cause of urticaria as well as the creeping eruption. The latter not being recognised.

Chronic dermatitis afflicts 15.16% of POW (E) and 30.60% of POW (J).

Tinea is troublesome in 13.54% POW (E) and 30.60% of POW (J).

GENITO - URINARY SYSTEM

The greatest cause of complaint among surviving POW is impotence. Some of this is undoubtedly psychological but it is of concern to 16.77% of POW (E) and 22.12% of POW (J). Sterility occurred in 3.22% of POW (E) and 5.10% in POW (J).

Renal calculi occurred in 0.96% POW (E) and in 2.21% POW (J).

Carcinoma of the kidney was present in 0.32% POW (E) and 0.12% POW (J). Carcinoma of the bladder was found in 0.32% POW (E) and 0.36% in POW (J). Carcinoma of the prostate was present in 0.32% of POW (E) and 0.67% in POW (J).

NERVOUS SYSTEM

Psychologically all POW took an enormous battering as outlined earlier and it is here that the main difference between the two groups is most evident. It is also here that the lack of vitamins is most apparent.

The text books describe the various morbid conditions as entities. We maintain that it is impossible to predict, without any doubt, just what the end result will be when an individual is concurrently suffering from recurrent malaria, chronic diarrhoea, beriberi, pellagra, aribinoflavinosis, malnutrition and starvation and, at the same time, is subject to the stresses outlined in the opening paragraphs.

7.

We believe that one result is premature senility. A condition resembling Alzheimer's disease or Wernike's disease was evident in many of the Veterans interviewed. The condition was not due to alcohol. We believe it to be due to a long term lack of essential vitamins combined with the lack of adequate protein over a number of years. The classical signs of pellagra are dermatitis, diarrhoea and dementia - pellagra was common in POW (J).

Depression sometimes began during imprisonment and was not recovered from after release. It often appeared in later middle age and tended to be associated with alcoholism. Depression was a feature among those interviewed and our findings are similar to those found in a study at Repatriation General Hospital, Concord. The stress of being a POW was enormous thus some 37.14% POW (E) and 46.77% of POW (J) suffer from anxiety state whilst a diagnosis of stress is applied to 30.96% POW (E) and 27.78% POW (J).

Nervous dyspepsia is present in 26.12% POW (E) and in 24.64% POW (J

Some 13.87% POW (E) and 19.05% POW (J) find it difficult to cope with every day problems.

Some 17.74% POW (E) and 28.02% POW (J) are mentally confused.

Some 35.80% of POW (E) and 27.85% POW (J) are unable to concentrate for any length of time. Many suffer from nightmares and are unable to sleep without some sedative.

Peripheral neuritis (Happy Feet) and /or foot drop is present in 2.58% POW (E) and 11.37% in POW (J) and is a cause of insomnia still.

Deafness of the sensori - neural type afflicts 3.22% POW (E) and 4.60% of POW (J) but 6.12% POW (E) and 3.87% POW (J) complain of poor hearing.

Marital problems such as divorce and separation appeared to be above average.

MISCELLANEOUS AND NUTRITIONAL

Gout is a problem in 1.93% POW (E) and in 2.95% in POW (J).

Diabetes mellitis appeared in 3.22% POW (E) and 2.95% POW (J).

Other conditions found were leprosy, lymphosarcoma, leukaemia, myasthenia gravis and thyrotoxicosis - all in POW (J).

OCULAR SYSTEM

This is another system ravaged by POW life. Again POW (J) suffered to a greater degree. 5.80% POW (E) complain of poor vision as do 15.55% POW (J).

Retrobulbar neuritis occurs in 0.06% POW (E) but in 8.96% in POW (J).

2.25% POW (E) and 4.85% of POW (J) have or have had cataract. Amblyopia is present in 0.62% POW (E) and in 6.14% POW (J). Scotoma is present in 0.49% POW (J) only. Keratitis occurs in 0.64% POW (E) and in 3.19% POW (J). Corneal scarring affects 6.40% POW (E) and 1.47% POW (J), this difference could be due to the sand blasting effect of service in the desert. Glaucoma is present in 0.96%POW (E) and 3.25% in POW (J).

It is well known that malnutrition with vitamin B deficiency caused many cases of severe optic nerve neuritis in POW (J). In many patients it progressed post - war and some cases, not detected on discharge, have become manifest as an early age.

RESPIRATORY SYSTEM

Respiratory problems were very common in all POW camps. In Europe, Japan, Korea and Manchuria it was intenseley cold and in the Three Pagoda Pass region on the Thai/Burma border, temperatures in winter, dropped below 15°C. As a result of poor nutrition, the absence of medication and satisfactory nursing care, respiratory infections tended to turn into pneumonia and was dreaded by all. One had to wait for the crisis. Clothing in most areas was inadequate, especially in the Asiatic theatre.

9.

As a result, chronic bronchitis is present in 18.38% POW(E) and 25.13% of POW (J). Emphysema was found in 11.61% of POW (E) and in 9.71% POW (J) The mortality from pneumonia was very high in all POW camps.

The ready availability of tobacco, in some form or other in POW camps resulted in most men smoking heavily as this relieved the pangs of hunger and tended to alleviate stress.

Carcinoma of the lung was present in 1.22% and carcinoma of the larynx in 0. 12% in POW (J) only Silicosis occurred in 0.32% POW (E) and 0.065% POW (J). See addendum.

SKELETAL SYSTEM

This is another system that took a battering in both groups. The forced work and the long marches by weak and sick men, both in Europe and Asia, under appalling conditions, took their toll, especially among POW (J) who were forced to do very heavy labouring work, particularly on the Thai/Burma Railway and in the coal and copper mines in Japan where other men had to work in steel mills, wharves and in ship building yards.

The very high incidence of degenerative conditions in this system suggests that malnutrition caused deterioration in the ability of bones and joints to withstand the physical strain of the labour involved. It is no wonder that the figures are so startling.

Cervical spondylosis among POW (E) is 9.35% and a very high 35.77% in POW (J) all currently being treated for this condition.

Thoraco - lumbar spondylosis is present in 10.96% POW (E) and in a staggering 40.19% of POW (J) . Chronic backache is found in 4.31% POW (E) and in 28.33% POW (J). Pain and limitation of movement of the shoulders and upper extremity afflicts 4.83% POW (E) and 28.33% POW (J).

Pain and limitation of movement of the hips and lower extremity is present in 9.35% POW (E) and in 30.73% POW (J).

EXPOSURE TO RADIATION

The atomic bombs undoubtedly saved the lives of all prisoners in Japanese hands. They knew that they were all to be executed, probably in August or early September, 1945. After Japan's surrender this latter point was confirmed in written Japanese orders.

There were many men who witnessed one or other atomic explosions, some very close to the epicentre, who survived and are living to day.

A large number of men were evacuated through Nagasaki shortly after the explosion. Very many men were exposed to the rain that fell soon after the explosion, this rain was almost certainly radio - active and this could explain the large number suffering from hyperkeratoses and basal cell carcinoma.

As it may be of interest, the complete figures are given below:

Hyperkeratosis and / or basal cell carcinoma	57.66%
Carcinoma of larynx	0.61%
Carcinoma of colon	0.61%
Carcinoma of bone	0.61%
Leukaemia	0.61%
Melanoma	0 61%
Lymphosarcoma	0.61%
Unspecified carcinoma	0 61%
Cerebral Tumour	0.61%
Cataract	6.31%
Blindness	0.61%
Papulo - masculer atrophy	0.61%
Chronic rashes	17.79%
Impotence	10.42%
Birth defects	1.22%

162 survivors were processed. No attempt is made to draw any conclusions.

SUMMARY

We believe that these Veterans are special people. They are all survivors of a disaster of huge proportions.
The full extent of this disaster can only be found in the study of the causes of death of those who returned home but subsequently perished.

To survive took a great deal of courage and determination plus a large amount of luck and it was probably a matter of survival of the fittest. If this is accepted, it is most important to recognise that not all of the disabilities, so reluctantly revealed by the men, are due to age, but to a great extent are the end product of a period of years of exposure to the stresses, both mental and physical, endured as prisoners. We feel that it is necessary to point out that many claims for disabilities were denied by the Department for Veterans' Affairs, because the claimant had been advised to claim for a specific disease unwisely. If he had not been so specific in his claim it probably would have succeeded.

In addition, the panel was surprised at the lack of education in a very large number. They were not only illiterate but also inarticulate and would be quite unable to fill in the necessary claim forms.

The panel found that the wives were able to give a better history of disabilities than the men - particularly about nervous conditions. We found it very advantageous to have the wife present when interviewing a man as most of the men interviewed were reluctant to talk about their disabilities.

ADDENDUM

Tobacco of sorts was readily available in most camps and, indeed in some, was an issue. As a result, most men became heavy smokers for they found that smoking did relieve the stress and the pangs of hunger. The habit persisted on return to civilian life. On return to Australia, they were given a special tobacco or cigarette ration and thus the habit was further encouraged.

It is accepted that tobacco smoking is a cause of both cardio - vascular and respiratory disease. Therefore, in this way, most cardio - vascular and respiratory diseases are directly related to war service and thus pensionable.

It is accepted also that a sudden increase of fat and protein in the diet causes a significant increase in circulating lipids and is of great importance in causing atherosclerosis and thus of cardio - vascular disease.

A STUDY OF THE PRESENT HEALTH

OF EX-PRISONERS OF WAR

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UNDER THE AUSPICES OF THE

N.S.W. EX-PRISONERS OF WAR ASSOCIATION

AS AT 30TH JUNE, 1984

A STUDY OF THE PRESENT HEALTH OF EX - PRISONERS OF WAR

The age group surveyed was 60 - 70 years of age. The actual figures collected were from over 600 ex-prisoners of war, men and woman, interviewed personally by members of the panel, from disabilities already accepted by the Department of Veteran Affairs. This necessitated retaining some of the euphemisms used by the Department.

Other figures were obtained from certificates by doctors and from an Australia wide questionaire sent out by the N.S.W. Branch of the Prisoners of War Association.

Great care was taken to ensure that the disabilities listed were actually being treated or presently causing trouble to the ex-POW. The figures will therefore err on the conservative side.

Some features not listed were only found by accident and an accurate estimate was not possible. For instance, it was found that there was great difficulty in getting the men to talk freely of their disabilities. It became apparent that these men had accepted their often apparent disabilities as a way of life and had lived with them uncomplainingly for years. A major breakthrough was made when the wife was interviewed with the ex-POW. It was only then that the true story was revealed. It was also found that there had been a profound disruption to family life. Many ex-PsOW were divorced, separated or had unsatisfactory marriages. In many cases it was evident that it was only the understanding and devotion of the wife that had kept the marriage intact. Impotence and sterility were often the main causes of marriage breakdown as was "nerves". It was noticed also that most of the men interviewed showed some signs of depression.

It was also noticed that premature senility was a feature in very many of the ex-PsOW interviewed. It is possible that this could be a by-product of malnutrition and starvation.

Figures obtained from the Department showed 12,500 ex-PsOW surviving in Australia as at 30th June, 1983. Of these 8,300 were prisoners of the Japanese, POW (J); 3,000 were prisoners in Europe, POW (E) and there were 32 prisoners of the Koreans.

The following tables have been sent to the Department of Veteran Affairs for their consideration.

The tables have also been sent to interested bodies in the UK., USA, and New Zealand.

	POW (E)		POW (J)		POW (TOTAL)	
	310	16.00%	1627	84.00%	1937	100%
ALIMENTARY SYSTEM						
Chronic Indigestion	71	22.90	421	25.87	492	25.40
Gastric Ulcer	23	7.41	121	7.43	144	7.43
Duodenal Ulcer	53	17.09	276	16.96	329	16.98
Chronic Diarrhoea	45	14.51	374	22.98	419	21.63
Faecal Incontinence	0		39	2.39	39	2.01
Diverticulosis	35	11.29	145	8.91	180	9.29
Strongyloides	0		219	13.46	219	11.30
Other Helminths	0		35	2.15	35	1.80
Silharzia	3	0.96	0		3	0.15
Hookworm	1	0.32	401	24.64	402	20.75
Amoebic Dysentery	3	0.96	117	7.19	120	6.19
Haemorroids	21	6.77	122	7.49	143	7.38
Hiatus Hernia	12	3.87	117	7.19	129	6.65
Oesophagitis	0		11	0.67	11	0.56
Inguinal Hernia	0		24	1.47	24	1.23
Umbilical Hernia	1	0.32	3	0.18	4	0.20
Cholecystitis	7	2.25	55	3.38	62	3.20
Pancreatitis	1	0.32	6	0.36	7	0.36
Cirrhosis of the Liver	0		14	0.86	14	0.72
Hepatomegaly	0		7	0.43	7	0.36
Unspecified Liver Trouble	3	0.97	36	2.21	39	2.01
Dysphagia	0		7	0.43	7	0.36
Chronic Small Bowel Obstruction	0		1	0.06	1	0.05
Carcinoma of the Mouth	0		2	0.12	2	0.10
Carcinoma of the Pharynx	0		1	0.06	1	0.05
Carcinoma of the Oesophagus	0		1	0.06	1	0.05
Carcinoma of the Stomach	1	0.32	2	0.12	3	0.15
Carcinoma of the Pancreas	0		2	0.12	2	0.10
Carcinoma of the Bowel	1	0.32	17	1.04	18	0.92
CARDIO-VASCULAR SYSTEM						
Hypertension	89	28.70	452	27.78	541	27.92
Cardiac Ischaemia and/or Infarct	41	13.22	426	26.18	467	24.10
Chronic Myocarditis	9	2.90	134	8.23	143	7.38
Stroke/Cerebral haemorrhage	13	4.19	114	7.00	127	6.55
Thrombophlebitis or Varicose Veins	5	1.61	26	1.59	31	1.60
Leg Cramps	1	0.32	28	1.72	29	1.49
Cerebral Atrophy	1	0.32	17	1.04	18	0.92
Oedema of Legs	1	0.32	17	1.04	18	0.92
Vaso-Vagal Attacks	1	0.32	21	1.29	22	1.13
Aortic Aneurism	4	1.29	16	0.98	20	1.03
Femoral By-Pass	1	0.32	6	0.36	7	0.36
Iliac Artery Occlusion	0		1	0.06	1	0.05
Splenomegaly	0		3	0.18	3	0.15
Peripheral Vascular Disease	16	5.16	79	4.85	95	4.90

	POW (E)		POW (J)		POW (TOTAL)	
DERMATALOGICAL SYSTEM						
B.C.C. & Hyperkeratosis	54	17.41	511	31.40	565	29.16
S.C.C.	3	0.96	35	2.15	38	1.96
Tinea	42	13.54	498	30.60	540	27.87
Chronic Dermatitis	47	15.16	381	23.41	428	22.09
Psoriasis	6	1.93	10	0.61	16	0.82
Melanoma	0		8	0.49	8	0.41
Ichthyosis	1	0.32	6	0.36	7	0.36
Urticaria	1	0.32	2	0.12	3	0.15
Vitelligo	1	0.32	2	0.12	3	0.15
Lupus Erythematosis	0		1	0.06	1	0.05
GENITO-URINARY SYSTEM						
Impotence	52	16.77	360	22.12	412	21.27
Sterility	10	3.22	83	5.10	93	4.80
Premature Ejaculation	0		5	0.30	5	0.25
TB Orchitis & Epididymitis	0		1	0.06	1	0.05
Testicular Atrophy	0		1	0.06	1	0.05
Pruritis Ani	0		38	2.33	38	1.96
Chronic Nephritis	1	0.32	1	0.06	2	0.10
Recurrent Miscarriage (Wife)	0		7	0.43	7	0.36
Birth Defects	0		3	0.18	3	0.15
Cystic Kidneys	0		1	0.06	1	0.05
Renal Calculi	3	0.96	36	2.21	39	2.01
Renal Failure	1	0.32	5	0.30	6	0.30
Nephrectomy	0		4	0.24	4	0.20
Urethral Stricture	0		3	0.18	3	0.15
Carcinoma of Breast (Mastectomy)	0		1	0.06	1	0.05
Carcinoma of Bladder	1	0.32	6	0.36	7	0.36
Carcinoma of Prostate	1	0.32	11	0.67	12	0.61
Carcinoma of Kidney	1	0.32	2	0.12	3	0.15
Carcinoma of Penis	0		1	0.06	1	0.05
NERVOUS SYSTEM						
Anxiety State	116	37.41	761	46.77	877	45.27
Nervous Dyspepsia	81	26.12	401	24.64	482	24.88
Stress	96	30.96	452	27.78	548	28.29
Inability to Cope	43	13.87	310	19.05	353	18.22
Mental Confusion	55	17.74	456	28.02	511	26.38
Loss of Concentration	111	35.80	453	27.84	564	29.11
Peripheral Neuritis	8	2.58	185	11.37	193	9.96
Insomnia & Nightmares	8	2.58	110	6.76	118	6.09
Dizziness	10	3.22	75	4.60	85	4.38
Poor Hearing	19	6.12	63	3.87	82	4.23
Migraine/Headaches	6	1.93	51	3.13	57	2.94
Vertigo	4	1.29	32	1.96	36	1.85
Psychiatric	2	0.64	30	1.84	32	1.65
Psychoneurosis/Paranoia	3	0.96	27	1.65	30	1.54
Parkinson's Disease	5	1.61	28	1.72	33	1.70
Tinnitus	4	1.29	19	1.16	23	1.18
Epilepsy	0		14	0.86	14	0.72
Loss of Sense of Smell & Taste	1	0.32	2	0.12	3	0.15
Colourblindness	0		2	0.12	2	0.10
Cerebral Tumour	0		2	0.12	2	0.10
Foot-Drop	4	1.29	12	0.73	16	0.82

	POW (E)		POW (J)		POW (TOTAL)	
MISCELLANEOUS NUTRITIONAL						
Beriberi	0		9	0.55	9	0.46
Pellagra	0		5	0.30	5	0.25
Tropical Ulcer	0		12	0.73	12	0.61
Otitis Externa	1	0.32	1	0.06	2	0.10
Frost Bite	31	10.00	12	0.73	43	2.21
Pernicious Anaemia	0		1	0.06	1	0.05
Gout	6	1.93	48	2.95	54	2.78
Diabetes Mellitis	10	3.22	47	1.88	57	2.94
Cancer Unspecified	0		1	0.06	1	0.05
Birth Deformities	0		2	0.12	2	0.10
Lymphosacoma	0		1	0.06	1	0.05
Leukaemia	0		1	0.06	1	0.05
Leprosy	0		1	0.06	1	0.05
Thyrotoxicosis	0		4	0.24	4	0.20
Myaesthenia Gravis	0		1	0.06	1	0.05
OCULAR SYSTEM						
Ambylopia	2	0.64	100	6.14	102	5.26
Scotoma	0		8	0.49	8	0.41
Keratitis	2	0.64	52	3.19	54	2.78
Poor Vision	18	5.80	253	15.55	271	13.99
Chronic Conjunctivitis or Blepharitis	7	2.22	72	4.42	79	4.07
Corneal Ulcer	0		10	0.61	10	0.51
Optic Neuritis/Atrophy	0		10	0.61	10	0.51
Iritis	0		6	0.36	6	0.30
Granular Cornea	0		3	0.18	3	0.15
Papulo-Macular Atrophy	3	0.96	10	0.61	13	0.67
Detached Retina	1	0.32	15	0.92	16	0.82
Retinal Artery Thrombosis	0		5	0.30	5	0.25
Choriodo-Cyclitis	0		1	0.06	1	0.05
Retro-Bulbar Neuritis	3	0.96	140	8.96	143	8.78
Diabetic Retinopathy	1	0.32	2	0.12	3	0.15
Corneal Scarring	2	0.64	24	1.47	26	1.34
Total Blindness (Malnutrition)	1	0.32	13	0.79	14	0.72
Papulo-Macular Sclerosis	3	0.96	9	0.55	12	0.61
Optic Atrophy	0		6	0.36	6	0.30
Chorioditis	1	0.32	2	0.12	3	0.15
Retinal Haemorrhage	0		5	0.30	5	0.25
Loss of One Eye	0		6	0.36	6	0.30
Diplopia	1	0.32	17	1.04	18	0.92
Glaucoma	3	0.96	53	3.25	56	2.89
Cataract	7	2.25	79	4.85	86	4.43
Aphakia	0		3	0.18	3	0.15
Melanoma	0		1	0.06	1	0.05
Trachoma	2	0.64	0		2	0.10

	POW (E)		POW (J)		POW (TOTAL)	
RESPIRATORY SYSTEM						
Breathlessness (Non Specific)	4	1.29	52	3.19	56	2.89
Chronic Bronchitis	57	18.38	409	25.13	466	24.05
Emphysema	36	11.61	158	9.71	194	10.01
Tuberculosis	19	6.12	4	0.24	23	1.18
Recurrent Pneumonia	3	0.96	47	2.88	50	2.58
Chronic Sinusitis	17	5.48	119	7.31	136	7.02
Asthma	7	2.25	42	2.58	49	2.52
Carcinoma of the Lung	0		20	1.22	20	1.03
Spontaneous Pneumothorax	0		2	0.12	2	0.10
Silicosis	1	0.32	1	0.06	2	0.10
Recurrent Laryngitis	0		15	0.92	15	0.77
Carcinoma of the Larynx	0		2	0.12	2	0.10
SKELETAL SYSTEM						
Fracture of the Spine	1	0.32	10	0.61	11	0.56
Cervical Spondylosis	29	9.35	582	35.77	611	31.54
Thoraco-Lumbar Spondylosis	34	10.96	654	40.19	688	35.51
Chronic Backache	14	4.51	461	28.33	475	24.52
Limitation of Movement of Shoulder, Superior Extremity	15	4.83	461	28.33	476	24.57
Limitation of Movement of Knee, Inferior Extremity	29	9.35	500	30.73	529	27.31
Plantar Fasciculitis	0		5	0.30	5	0.25
Osteoporosis	0		5	0.30	5	0.25
Paget's Disease	1	0.32	0		1	

EXPOSURE TO RADIATION

Number Exposed Surveyed 163
Expressed as a percentage of Total No. POW(J) Exposed to radiation being 163.

Hyperkeratosis & B.C.C.	94	57.66
Impotence	17	10.42
Carcinoma of Larynx	1	0.61
Carcinoma of Colon	1	0.61
Carcinoma of Eyelid	1	0.61
Carcinoma of Bone	1	0.61
Leukemia	1	0.61
Melanoma	1	0.61
Cataract	10	6.13
Lymphosarcoma	1	0.61
Unspecified Carcinoma	1	0.61
Cerebral Tumour	1	0.61
Birth Defects	2	1.22
Chronic Rashes	29	17.79
Blindness	1	0.61
Papulo-Macular Atrophy	1	0.61

Gold Star Wives of America, Inc.

STATEMENT OF
GERALDINE B. CHITTICK, LEGISLATIVE CHAIRMAN
GOLD STAR WIVES OF AMERICA, INC.

TO THE

SUBCOMMITTEE ON COMPENSATION, PENSIONS AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING LEGISLATIVE PROPOSALS PERTAINING TO
DEPENDENCY AND INDEMNITY COMPENSATION

April 9, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE,

We welcome this opportunity to appear before this Committee to make known the position and recommendations of GOLD STAR WIVES OF AMERICA on matters relating to the DIC program. The regard with which this Committee hears the views and recommendations of our organization is very much appreciated. We thank the Committee for the priorities placed on protecting and strengthening the benefits that control the livelihood of survivors of servicemen and veterans.

H.R. 1084, which at this time calls for a projected 3.5 percent increase in DIC, would assure that our compensation can be expected to at least partially keep pace with the increased cost of living. At the same time, we would remind the Committee of our concern about continuing still another year under the current formula, bringing about further widening of the difference between highest and lowest compensated widows. The formula provides less than adequate benefits to lowest rank widows and has continued for too long a time.

Because of budgetary constraints, we recognize that this is probably not the year that the kind of DIC formula revision that is needed can be implemented. It may well be more than a year or two before this can be achieved because of deficit problems. However, it has become obvious that a fair and acceptable revised formula will not be easily reached. Each organization possesses deep feelings as to what is fair and equitable. Widows of servicemen killed while on active duty have survived an unforgettable trauma from which one never completely recovers - and yes, this does remain true for widows who have remarried. It is no simple responsibility to rear children alone. We also recognize that widows of service-disabled veterans have undergone a far different experience.

Gold Star Wives of America requests that the Committee implement steps toward looking into the possibilities of a formula based on the recommendations presented to the Committee by this organization: An equal Base Pay on which all COLA's would apply - plus a fixed amount based on rank and length of service. Under this proposal, every widow would always receive the same Base Pay, and the dollar increase would always be the same for all benefit recipients.

The provisions of H.R. 1084 for a 3.5 percent COLA would result in a $17 increase in the E-1 category and $45 in the O-10. The absolute necessities of housing, utilities, food and medical expenses increase equally. In order to address the immediate concern, we would suggest to the Committee that the appropriated funds for the projected COLA might be divided equally among all DIC recipients until such time as a revision in the formula can be achieved, thus putting a halt to the ever-widening gap between top and bottom and providing some relief to the lower category group.

On H.R. 1427, we are unable to concur that a spouse should be a recipient of DIC after as little as one year of marriage to a service-disabled veteran. We believe this would increase an already abused practice.

This Committee's diligence in recent years in providing annual Congressional review of the Compensation and DIC program would render unnecessary the Administration's recommendation that our COLA's be indexed. We would be extremely concerned to have this occur prior to a revision of the DIC formula. In addition, annual Congressional review does provide an instrument for handling other matters pertaining to the program.

With the revelation that other Federal programs now provide for remarriage after age 55 instead of 60 without loss of benefits, the hue and cry from some DIC recipients will become even more pronounced. We would again request the Committee to look favorably at such legislation and include it in future hearings.

Thank you for the invitation extended to Gold Star Wives of America to participate in this hearing.

THE
RETIRED
OFFICERS
ASSOCIATION
201 N. Washington St., Alexandria, VA 22314-2529 • (703) 549-2311

STATEMENT OF

THE RETIRED OFFICERS ASSOCIATION

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS AFFAIRS

SUBCOMMITTEE ON COMPENSATION, PENSIONS AND INSURANCE

PRESENTED BY:

COMMANDER JOHN WANAMAKER, USN, RETIRED
DEPUTY DIRECTOR, LEGISLATIVE AFFAIRS

APRIL 9, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM COMMANDER JOHN WANAMAKER, DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS FOR THE RETIRED OFFICERS ASSOCIATION (TROA) WHICH HAS ITS NATIONAL HEADQUARTERS AT 201 NORTH WASHINGTON STREET, ALEXANDRIA, VIRGINIA. OUR ASSOCIATION HAS A MEMBERSHIP OF MORE THAN 355,000 ACTIVE DUTY, RETIRED AND RESERVE OFFICERS OF THE SEVEN UNIFORMED SERVICES. INCLUDED IN OUR MEMBERSHIP ARE 43,000 AUXILIARY MEMBERS WHO ARE THE SURVIVORS OF FORMER MEMBERS.

I WANT TO THANK THE COMMITTEE FOR THIS OPPORTUNITY TO EXPRESS THE VIEWS OF THE MEMBERS OF THE RETIRED OFFICERS ASSOCIATION ON LEGISLATION PENDING BEFORE THIS COMMITTEE. THE LEGISLATION UNDER CONSIDERATION WOULD MAKE CHANGES TO THE PROGRAMS WHICH PROVIDE COMPENSATION TO VETERANS AND THEIR SURVIVORS FOR INCOME LOSSES DUE TO DEATH, DISEASE OR INJURY ATTRIBUTABLE TO MILITARY SERVICE.

BEFORE DISCUSSING SPECIFIC LEGISLATION, I WOULD LIKE TO ADDRESS THE ADMINISTRATION'S PROPOSAL TO ESTABLISH A PERMANENT FORMULA WHEREBY FUTURE INCREASES IN VETERANS COMPENSATION PROGRAMS WOULD BE AUTOMATICALLY ADJUSTED BY CHANGES IN THE CONSUMER PRICE INDEX (CPI). HISTORICALLY, IN THE EXERCISE OF ITS OVERSIGHT RESPONSIBILITY, CONGRESS LOOKS TO THE WISDOM OF THE MEMBERS OF THIS COMMITTEE TO CONSIDER AND REPORT LEGISLATION TO MEET THE NEEDS OF DISABLED VETERANS AND THEIR SURVIVORS. THIS PROCESS HAS WORKED WELL IN THE PAST AND PROVIDES CONTINUING REASSURANCE TO THOSE VETERANS THAT EACH YEAR THEIR INTERESTS WILL BE PROPERLY PROTECTED AND NOT SUBJECT TO THE PERVERSITY OF THE OMB

BUDGET AX.

EVEN AS WE MEET HERE, OTHER CONGRESSIONAL PANELS ARE CONSIDERING FREEZING ENTITLEMENT PROGRAMS FOR THE NEXT FISCAL YEAR. CONVERSELY, THE COST-OF-LIVING ADJUSTMENT (COLA) LIGHTNING ROD, WHICH ATTRACTS PERENNIAL STRIKES DURING THE OMNIBUS BUDGET RECONCILIATION PROCESS, IS NOT AN ADEQUATE METHOD TO DETERMINE THE NEEDS OF OUR DISABLED VETERANS AND THEIR SURVIVORS. THE CURRENT STABLE PROCESS WHEREBY THIS COMMITTEE THOROUGHLY REVIEWS AND MAKES RECOMMENDATIONS FOR VETERANS COMPENSATION PROGRAMS SHOULD BE MAINTAINED.

TO ILLUSTRATE HOW THE AUTOMATIC ADJUSTMENT MECHANISM HAS WORKED TO THE DETRIMENT OF DISABLED VETERANS AND SURVIVORS ONE HAS ONLY TO LOOK BACK TO THE LAST CONGRESS. THE ENACTMENT OF P.L. 99-366 ON JULY 31, 1986, RATIFIED AND REAFFIRMED THE SEQUESTRATION ORDER OF THE PRESIDENT AS ISSUED UNDER SECTION 252 (A)(1) OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985. THAT ACTION ELIMINATED THE COLA FOR THOSE VETERANS WHOSE MILITARY RETIRED PAY WAS BASED ON DISABILITIES AND FOR THOSE SURVIVORS OF DECEASED VETERANS WHOSE ANNUITIES WERE BEING PAID UNDER THE SURVIVOR BENEFIT PLAN (SBP) ADMINISTERED BY THE DEFENSE DEPARTMENT. IN THESE INSTANCES, EFFECTIVE DEC. 1, 1985, THE DISABLED VETERANS AND SURVIVORS FORFEITED THEIR RETIRED PAY OR SURVIVOR ANNUITIES EQUAL TO THE DOLLAR INCREASE THEY RECEIVED IN VA DISABILITY COMPENSATION OR DEPENDENCY INDEMNITY COMPENSATION (DIC). CONSEQUENTLY, IN FY 1986, VETERANS AND SURVIVORS WHO WERE PAID BY THE SERVICE FINANCE CENTERS DID NOT RECEIVE AN INCREASE TO THEIR NET INCOME AS WAS INTENDED. FOR THESE AND OTHER CONSIDERATIONS WHICH MIGHT ADD TO A

VETERAN'S ANXIETY OVER HIS FINANCIAL SECURITY, WE STRONGLY OPPOSE TYING VA COMPENSATION PROGRAMS TO THE AUTOMATIC COLA ADJUSTMENT PROCESS. THE EXISTING REVIEW AND OVERSIGHT BY THIS BODY IS IN THE BEST INTERESTS OF VETERANS AND THEIR SURVIVORS AND SHOULD CONTINUE.

DEPENDENCY AND INDEMNITY COMPENSATION

THIS COMMITTEE HAS BEFORE IT FOR CONSIDERATION A BILL (H.R. 1084) WHICH, IF FAVORABLY CONSIDERED, WOULD PROVIDE AN INCREASE IN VA DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION PROGRAMS BY 3.5 PERCENT TO BE EFFECTIVE 1 DECEMBER 1987. THE MEMBERS OF OUR ASSOCIATION STRONGLY SUPPORT AN INCREASE IN THE COMPENSATION PROGRAM BENEFITS COMMENSURATE WITH THE LOST EARNING POWER DUE TO THE VETERAN'S DEATH OR INJURIES.

CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VA COMPENSATION

THERE IS A PRESSING NEED FOR THE COMMITTEE TO RECONSIDER ITS POSITION ON A CENTURY OLD LAW THAT REQUIRES MILITARY RETIREES WHO ARE ALSO ELIGIBLE TO RECEIVE VA DISABILITY COMPENSATION TO HAVE THEIR RETIRED PAY REDUCED BY THE AMOUNT OF VA DISABILITY COMPENSATION. THIS OFFSET OCCURS EVEN THOUGH THE MILITARY RETIREMENT BENEFITS ARE BASED ON LENGTH OF SERVICE AND HAVE NO RELATIONSHIP TO THE PURPOSES OF VA COMPENSATION WHICH IS THE REPLACEMENT OF LOST INCOME DUE TO INJURIES OR ILLNESSES INCURRED IN THE LINE OF DUTY TO THIS NATION. THERE ARE VARIOUS FEDERAL CIVILIAN RETIREMENT SYSTEMS THAT PERMIT VETERANS TO RECEIVE BOTH VA DISABILITY BENEFITS AND FULL FEDERAL RETIREMENT ANNUITIES. IN SOME OF

THESE SYSTEMS, RETIREMENT CAN BE AS EARLY AS IN THE MILITARY.

IN FACT, IF A MILITARY RETIREE LATER USES HIS MILITARY SERVICE TIME FOR CREDIT ON FEDERAL CIVILIAN RETIREMENT, NO FORFEITURE IS THEREAFTER REQUIRED FOR HIM TO COLLECT THE FULL AMOUNT OF THE DISABILITY COMPENSATION AWARDED BY THE VETERANS ADMINISTRATION.

THIS UNFAIR SITUATION SHOULD BE CORRECTED NOW. THE RATIONALE IS VERY STRAIGHTFORWARD. THE MILITARY RETIREMENT CHECK SHOULD COMPENSATE FOR LENGTH OF SERVICE AND SHOULD BE THE SAME AS GRANTED ANY OTHER SERVICE MEMBER OF THE SAME RANK FOR THE SAME SERVICE. THE OTHER CHECK FROM THE VA SHOULD BE PAID TO COMPENSATE FOR THE PHYSICAL PAIN AND IMPAIRMENT REPRESENTED BY THE DISABILITY AND FOR THE POSSIBLE ECONOMIC LOSS THAT MAY RESULT FROM A PHYSICAL HANDICAP THE MEMBERS OF OUR ASSOCIATION STRONGLY URGE THIS COMMITTEE TO FAVORABLY CONSIDER AMENDING THE BILL (H.R. 1084) TO INCLUDE THE PROVISION OF H.R. 303 WHICH WOULD AUTHORIZE THE CONCURRENT RECEIPT OF RETIRED PAY FOR LENGTH OF SERVICE AND V.A. DISABILITY COMPENSATION.

<u>REMARRIAGE OF DIC WIDOWS</u> (HR 1547)

MOST FEDERAL PROGRAMS (SOCIAL SECURITY, THE CIVIL SERVICE SURVIVORSHIP PROGRAM AND THE MILITARY SURVIVOR BENEFIT PLAN) ALLOW A WIDOW TO TO CONTINUE TO BE PAID THOSE ANNUITIES SHOULD THEY REMARRY AFTER AGE 55. OUR ASSOCIATION MEMBERS ASK THAT SIMILAR PROVISIONS BE INCORPORATED IN THE VA DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM BY AN APPROPRIATE AMENDMENT BEING ADDED TO THE BILL (H.R. 1084) NOW UNDER

CONSIDERATION.

DIC Benefit Levels

FINALLY, THE BASIC BENEFIT LEVELS OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM DO NOT ADEQUATELY REPLACE THE INCOME LOSSES OF SERVICEMEMBERS WHO DIE WHILE IN THE SERVICE OF THEIR COUNTRY. I WOULD CALL TO THE ATTENTION OF THE COMMITTEE THAT THE ERISA LAWS WHICH APPLY TO THE PRIVATE SECTOR AND THE FEDERAL CIVIL SERVICE SURVIVOR'S PROGRAM OFTEN PROVIDE BETTER SURVIVORS' COMPENSATION THAN DOES THE DIC PROGRAM. THIS IS ESPECIALLY APPARENT IN THE MID-LEVEL ENLISTED AND OFFICER GRADES. IT IS RECOMMENDED THAT THIS COMMITTEE DIRECT THE VA TO CONDUCT A STUDY TO DETERMINE IF THE REPLACEMENT INCOME OF THE DIC PROGRAM IS REASONABLY COMPARABLE TO THAT PROVIDED THE CIVILIAN SECTOR PROGRAMS. WE BELIEVE THAT BASIC MILITARY COMPENSATION (BMC), WHICH IS THE MILITARY EQUIVALENT OF A CIVILIAN SALARY, SHOULD BE USED AS A BASIS FOR MAKING THIS COMPARISON DETERMINATION.

VA HOME LOANS (H CON RES 78)

A KEY PROGRAM UNDER YOUR PURVIEW, THE VA HOME LOAN, IS UNDER THE GUN. THE BUDGET PROPOSES TO INCREASE THE VA HOME LOAN ORIGINATION FEE FROM ONE PERCENT TO 2.5 PERCENT EFFECTIVE JUNE 1, 1987. THIS WOULD AMOUNT TO AN INCREASE OF BETWEEN $600 AND $1,500 ($900 FOR A $60,000 HOME) IN THE FEE PAID BY A TYPICAL VETERAN HOME BUYER. SUCH AN INCREASE COULD PUT HOME OWNERSHIP OUT OF REACH AS A HOUSING ALTERNATIVE FOR MANY OF

OUR ENLISTED MEMBERS AND OFFICERS, WHO, BECAUSE OF GOVERNMENT DIRECTED PERMANENT CHANGE OF STATION ORDERS, HAVE LITTLE CHOICE AS TO WHEN THEY ENTER THE HOUSING MARKET. IT WOULD SIMILARLY ADVERSELY IMPACT ON SEPARATED VETERANS WHO RELY HEAVILY ON THE LOAN GUARANTEE TO PURCHASE A HOME UPON RETURN TO CIVILIAN LIFE. SIMILAR PROPOSALS HAVE BEEN REJECTED BY THE CONGRESS IN RECENT YEARS, AND WE URGE YOU TO OPPOSE ANY INCREASE IN VA HOME LOAN ORIGINATION FEES.

MR. CHAIRMAN: THERE REMAINS ONE OTHER ISSUE THAT WE BELIEVE REQUIRES THE EARLY ATTENTION OF THIS COMMITTEE. PROBABLY THE GREATEST IMMEDIATE CRISIS FACING OUR NATION IN THE NEXT DECADE IS THE RAPIDLY EXPANDING POPULATION FOUND TO HAVE CONTRACTED THAT HORRIBLE AND INCURABLE DISEASE, ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). THERE HAS BEEN CONSIDERABLE PUBLICITY ABOUT THE FACT THAT DURING THE PERIOD 1976 THROUGH 1984, BLOOD UNSCREENED FOR THE AIDS VIRUS WAS USED FROM VARIOUS BLOOD BANKS, INCLUDING THAT PROVIDED TO MILITARY AND VETERAN PATIENTS, IN HOSPITALS ADMINISTERED BY THE DEPARTMENT OF DEFENSE AND THE VETERANS ADMINISTRATION. UNDOUBTEDLY, SOME OF THAT BLOOD WAS CONTAMINATED. SINCE THE INCUBATION PERIOD OF AIDS CAN VARY BETWEEN 5 AND 10 YEARS, IT BECOMES DIFFICULT TO DETERMINE IF AN INDIVIDUAL MAY HAVE CONTRACTED THE DISEASE WHILE IN SERVICE, MAYBE THROUGH THE USE OF CONTAMINATED BLOOD. THE FUNDAMENTAL QUESTION TO BE ADDRESSED IS, "WHAT IS THE RESPONSIBILITY OF THE VETERANS ADMINISTRATION TO PROVIDE HEALTH CARE FOR VETERANS, THEIR SPOUSES AND CHILDREN WHO MAY HAVE CONTRACTED THE DISEASE FROM THE VETERAN OR MILITARY MEMBER?" OFTEN IN MAKING DETERMINATIONS FOR DEPENDENCY AND INDEMNITY COMPENSATION ELIGIBILITY, THE VA STATUTES REQUIRE THE INDIVIDUAL VETERAN TO HAVE BEEN 100 PERCENT

DISABLED FOR FIVE YEARS FROM TIME OF DISCHARGE OR 10 YEARS CONTINUOUSLY PRIOR TO TIME OF DEATH. THESE CRITERIA WON'T FIT THE DIMENSIONS OF THIS DISEASE.

ALTHOUGH YOUR PRIMARY INTERESTS HERE TODAY RELATE TO THE COMPENSATION ISSUE AND NOT NECESSARILY HEALTH CARE, I BELIEVE THESE ISSUES TO BE INTERRELATED AND REQUIRE A THOROUGH REVIEW AS TO HOW THE VETERANS ADMINISTRATION SHOULD RESPOND TO THIS CRISIS. IN THE ADMINISTRATION'S BUDGET PROPOSAL WAS A REQUEST TO DRASTICALLY REDUCE THE MEDICAL PROFESSIONAL STAFF BY SEVERAL THOUSAND EMPLOYEES. UNDER THE IMPENDING CIRCUMSTANCES, I BELIEVE IT MAY VERY WELL BE NECESSARY TO INCREASE THE STAFF SIGNIFICANTLY INSTEAD OF MAKING ANY REDUCTIONS. THIS WHOLE PROBLEM IS ALMOST INCOMPREHENSIBLE AND I RESPECTFULLY RECOMMEND THAT THIS COMMITTEE DIRECT THE VA OR SOME INDEPENDENT AGENCY TO UNDERTAKE A THOROUGH STUDY OF THE IMPLICATIONS THIS DISEASE MAY HAVE ON THE FUTURE OF THE COMPENSATION AND MEDICAL PROGRAMS OF THE VETERANS ADMINISTRATION. TO ADEQUATELY PROVIDE FOR THE FUTURE NEEDS OF THE VICTIMS OF THIS DISEASE, BOTH THE VETERAN AND HIS SURVIVORS, THIS INFORMATION IS NEEDED NOW RATHER THAN LATER.

THIS CONCLUDES MY STATEMENT AND I WILL TRY TO ANSWER ANY QUESTIONS THAT THE MEMBERS OF THE COMMITTEE MAY HAVE.

Statement of

Charles C. Partridge
Legislative Counsel
The National Association for Uniformed Services
Before the

Subcommittee on Compensation, Pension, and Insurance
Committee on Veterans' Affairs
U. S. House of Representatives

April 9, 1987

Mr. Chairman and members of the Subcommittee, I welcome the opportunity to present the views of the National Association for Uniformed Services to this distinguished panel.

The National Association for Uniformed Services (NAUS) is unique in that we represent all grades and ranks of uniformed services personnel and their spouses and widow(er)s. Our membership includes active, retired, and reserve personnel of all seven uniformed services: Army, Navy, Air Force, Marines, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. With such a membership, we are able to draw information from a broad base for our legislative activities.

Indexing. We oppose the fiscal 1988 Budget proposal to index compensation and DIC to the Consumer Price Index (CPI). By long tradition and practice the Veterans' Affairs Committees have reviewed veterans' compensation programs each year and made adjustments based on consideration of a variety of factors. This system is working well and we believe it should be continued.

H.R. 1084. We support enactment of H.R. 1084, which would provide a 3.5 percent increase in the rates of compensation and of dependency and indemnity compensation paid by the Veterans' Administration.

H.R. 1427. NAUS supports H.R. 1427 which would recodify certain provisions relative to benefits for surviving spouses and children and in particular the provision to grant authority to pay benefits to a surviving spouse who was married to a veteran one year or more. This is an appropriate change from the two year minimum requirement.

H.R. 1547. Other needed changes to the DIC program include the provision of H.R. 1547 which would allow the remarriage of a surviving spouse of a veteran after age 55 without termination of DIC. Currently, the Civil Service, Foreign Service, and military Survivor Benefit Plan surviving spouses may remarry after age 55 without losing eligibility for the benefit; the some condition should apply to DIC widows.

DIC Rates. Another change which would provide a more equitable and helpful means for providing support for DIC recipients involves the method for computing the payment. The current method considers only the military pay grade for calculating the amount of compensation. NAUS supports the proposal that primary compensation of a fixed and minimum amount be payable to all DIC widows. This base amount would then be adjusted with consideration given to pay grade, length of service, and condition or circumstance leading to cause of death.

H.R. 303. This bill, introduced by Mr. Michael R. Bilirakis, Mr. Charles E. Bennett and Mr. Mike Lowery, would permit veterans with service-connected disabilities who are retired members of the Armed Forces to receive disability compensation concurrently with retired pay without deduction from either. Military retirees are the only category of veteran who must give up their retired pay in an amount equal to the compensation they receive from the Veterans' Administration. Veterans who retire from federal civilian employment, the U. S. Postal Service, and from state and local governments may receive disability compensation and retired pay concurrently. We believe Armed Forces retirees should receive the same treatment and therefore ask this committee to support H.R. 303.

H.R. 1543 and H.R. 1544. NAUS supports these bills to improve veterans' benefits for former prisoners of war.

NAUS appreciates the opportunity to present its views on these subjects, and the interest displayed by this committee on matters of importance to this nation's veterans.

I am prepared to respond to questions.

Board of Veterans Appeals Washington DC 20420

Veterans Administration

In Reply Refer To: 014C 1

XC 10 531 133
DOUGLASS, Dee W.

Mrs. Doris M. Douglass
3757 View Verde
Bonita, CA 92002

Dear Mrs. Douglass:

The Board has made its decision on the appeal in this case. I am enclosing a copy, which is self-explanatory. Your records are being returned to the office which has jurisdiction over your claim.

Sincerely yours,

KENNETH E. EATON
Chairman

Enclosure

FL 1-1
Mar 1982(RS)

IN THE APPEAL OF

DORIS M. DOUGLASS

XC 10 531 133

IN THE CASE OF

DEE W. DOUGLASS

BOARD OF VETERANS APPEALS
WASHINGTON, D.C. 20420

Sitting in San Diego, California

FINDINGS AND DECISION) DOCKET NO. 84-40 915
)
)
)
DATE MAR 26 1986

THE ISSUE

Entitlement to service connection for the cause of the veteran's death.

REPRESENTATION

Appellant represented by: Disabled American Veterans

WITNESSES AT HEARING ON APPEAL

Doris M. Douglass, appellant and Captain J.M. Battaglino

CONSULTATIONS BY THE BOARD

Alice A. Booher, Staff Legal Adviser

DOUGLASS, Dee W. XC 10 531 133

ACTIONS LEADING TO PRESENT APPELLATE STATUS

This appeal is taken from the rating actions by the agency of original jurisdiction denying entitlement to service connection for the cause of the veteran's death. The appellant and another witness provided testimony before a traveling section of this Board sitting in San Diego, California on December 5, 1984. Also present on that occasion was the appellant's representative from the Disabled American Veterans. A transcript of the hearing held on appeal is incorporated within the claims folder. At the time of the hearing, additional records were presented including the complete, original files of the pertinent medical records, newspaper clippings, and other documentation, consideration of which by the originating agency was waived by the appellant.

CONTENTIONS

In substance, it is contended by and on behalf of the appellant that following separation from service, the veteran required extensive treatment,including surgery,for service-connected problems; that his treatment and response thereto required the use of multiple blood transfusions; and the multiple transfusions resulted in his contracting AIDS (Acquired Immune Deficiency Syndrome), which ultimately led to his death. It is averred that all other causative factors for the veteran's death such as multiple myeloma have been excluded; and similarly, all of the other possible causes for the veteran having contracted AIDS, other than as a result of blood transfusions, have b e e n effectively eliminated. At the formal hearing held on appeal, during testimony which will be cited in pertinent part in the evidence portion of this decision, it was noted that specialized medical expert opinion had been rendered in this case by authorities on AIDS, that these authorities had reached the conclusion that the veteran's service-connected disabilities had required blood transfusions and that in turn, these blood transfusions must reasonably be considered the cause of his AIDS which led to his death. The appellant's representative contends that a reasonable doubt is raised in the case which would allow for a grant of the requested benefits.

74-826 0 - 87 - 5

THE EVIDENCE

The veteran had active service from July 1943 to May 1946, and from January 1949 until retirement from the Navy Judge Advocate General Corps,as a Captain,in June 1974. The contents of service medical records are not pertinent to the present appeal.

During the veteran's lifetime, and at the time of his death, he had service connection with the following evaluations: 20 percent for hiatus hernia, diverticula of the duodenum and diverticulosis of the colon; 20 percent for degenerative arthritis of the cervical and lumbar spine with lumbar radiculitis; 10 percent for nasal fracture with left-sided airway obstruction; 10 percent for bilateral otitis externa; and noncompensable evaluations, each, for bilateral hearing loss with cephalalgic tinnitus and postural vertigo, and postoperative saphaneous vein stripping of the left leg. His combined disability evaluation w a s 50 percent.

Veterans Administration examination reports from 1974, 1977 and 1979 as well as outpatient clinical reports show a variety of complaints and treatments, but no evidence of AIDS.

According to the death certificate, the veteran died on April 10, 1984, while a patient at the San Diego Naval Hospital. The cause of death was listed as "respiratory failure" of hours duration, due to pneumocystis carinii pnuemonia of weeks duration. Another significant condition contributing to death but not related to the cited cause of death was monoclonal gammopathy. Both biopsy and autopsy were performed.

The appellant's claim for entitlement to service connection for the cause of the veteran's death was filed on April 24, 1984. Shortly thereafter, a statement was received from Steven D. Colby, M.D., dated April 30, 1984, relating to the veteran's death. Lieutenant Commander Colby of the Naval M e d i c a l Corps referred to the veteran's death at the San Diego Naval Hospital on April 10, 1984, as having been "due to complications of the Acquired Immune Deficiency Syndrome (AIDS)." He further stated that the veteran's acquisition of AIDS was related to the ailment that had provided him with disability upon retirement. Dr. Colby's statement further read as follows, in pertinent part:

> "(The veteran) was diagnosed as having AIDS on the basis of two episodes of Pneumocystis carinii pneumonia, the first episode occurring in March of 1983, and an episode of Candida esophagitis. He had no underlying immune deficiency to explain these infections. It is my feeling and the feelings of the AIDS investigators at the Centers for Disease Control that the illness was probably acquired from blood transfusions which (the veteran) had received during the previous three years. He had not required any transfusions until he was hospitalized for a perforated diverticulum and generalized peritonitis two to three years before he manifested his AIDS. Since that time, due to slow bleeding and an anemia of chronic disease and development of symptoms due to that anemia, he has required 21 units of blood. It is expected that one or more of these units is responsible for his having contracted AIDS.
>
> "Because there is no test diagnostic of AIDS, neither in patients nor in donor blood, there is no way to prove the link between the transfusions and (the veteran's) condition. However, in my expert opinion, (the veteran's) diverticulitis led to his receiving multiple transfusions which led to his developing AIDS which ultimately caused his demise."

Initially, the agency of original jurisdiction was only able to obtain brief narrative summaries of the terminal hospitalization records and autopsy protocol, and later the hospitalization records for periods of care commencing in 1981. Subsequent thereto, and provided at the time of the formal hearing held on appeal, were the original clinical records and four voluminous packages of d o c u m e n t s. All of these records are now available for appellate review.

In addition, summaries, copies and extracts of pertinent portions of those records have been developed by the appellant and Captain Battaglino. A comparison of the original clinical records and the aforecited pertinent summaries shows the latter to be an accurate reflection of the chronicity and documentation found within the original files. This Board finds it necessary only to cite the basic summary findings of the veteran's treatment commencing in April 1981, at the Naval Hospital in San Diego.

On April 15, 1981, the veteran was admitted for a large bowel obstruction secondary to diverticulous stricture. Six days later, he underwent a left hemicolectomy and splenorrhaphy. Postoperatively, he had spiking temperatures. On the 10th postoperative day, he underwent an exploratory laparotomy and drainage of a left subphrenic abcess. Over the next two weeks, he had a prolonged course of spiking temperatures, requiring multiple manipulations of the drainage tract. On May 4, 1981, he had surgery for drainage of a left subphrenic abscess following indications, at 12 days after the left colon resection and splenorrhaphy, that he had splenic injury and other symptoms such as spiking fevers and left shoulder pain. Also, a computerized axial tomograph scan showed left subphrenic collection. During that time, the abdominal cavity was opened and approximately 1,000 cc. of purulent material was evacuated from the left subphrenic space. On June 5, 1981, he was readmitted for irrigation of the drain tract after he developed a fever of 102 degrees with chills . He had required daily irrigation of the drained cavity.

A surgical report on June 21, 1981, was to the effect that the consultative physicians concluded that the abscess cavity was (still) inadequately drained in the left subphrenic space area, and suggested an 11th rib resection through a left flank incision with drainage of the abscess cavity. On the following day, this procedure was undertaken. Postoperatively, he had no untoward results except for prolonged need for irrigation of the drainage cavity and slow progress. He was discharged on July 14, 1981.

The original medical records show that commencing on April 22, 1981 and through June 27, 1981, he underwent numerous blood transfusions. The original orders for these transfusions are of record, showing that all were type "O positive" blood; they had all been received at the blood bank at the Naval Hospital, but the sources are not cited on the forms. They are all numbered.

Records of subsequent treatment are available and are reported below in pertinent part.

On April 13, 1983, the veteran complained that his pain had become progressively worse, that it had become particularly severe in the past two to three months, and that the pain was then located in the middle of the lower back and radiated down the right leg. He reported a multitude of other problems at that time, and indicated that he had not "been able to do anything" for some time. On July 16, 1983, he was found to have pneumocystic carinii infection. It was suggested that he was manifesting some sort of immunodeficiency syndrome as manifested by this opportunistic infection as well as other findings. It was not initially known whether or not the gammopathy represented a questionably neoplastic process such a myeloma which would account for the immunodeficiency state, or whether or not this represented an actual manifestation of an acquired immunodeficiency syndrome. From the start, it was one physician's suggestion that he suspected the presence of AIDS in light of the lack of evidence of other findings indicative of myeloma and in the presence of other signs compatible with AIDS; and he also noted that the veteran was not a member of any of the population at risk for AIDS. It was, however, noted that he had had multiple transfusions within the time frame consistent with AIDS.

Continuing medical records show that, commencing in early 1983, the veteran had developed myalgias, vomiting, a hacking cough, diarrhea, and fever. X-rays in May 1983 documented pneumonia of pneumocystitis type. In June 1983, he underwent a right thoracotomy and lung biopsies, samples from which confirmed multiple pneumocystis carinii organisms. Thereafter, on numerous occasions, he was evaluated and reevaluated by an AIDS panel. It is noted that he also had several transfusions during this period of care. Again, the veteran was noted not to be a member of any of the population at risk for AIDS, other than that he had had multiple transfusions. The initial bout of pneumocystis carinii pneumonia resolved after treatment with Pentamidine, 250 milligrams, over a 14-day period.

In February 1984, he was admitted with complaints of malaise, shortness of breath and weakness with chest pain and cough. At

discharge on March 19, 1984, he was diagnosed as having Acquired Immune Deficiency Syndrome, pneumocystis carinii pneumonia, candida esophagitis and Ig G Gammopathy.

On March 30, 1984, he was readmitted to hospitalization with elevated fever and chest symptoms as well as confusion and agitation. At that time, it was noted that Dr. Colby had reviewed the case. The veteran died on April 10, 1984. O n autopsy final diagnoses were as follows: (1) altered mental status; (2) IgG monocolonal gammopathy; (3) history of pneumocystis pneumonia; (4) history of candida esophagitis; (5) status post partial colectomy for diverticulitis; (6) Acquired Immune Deficiency Syndrome presumably secondary to blood transfusions; (7) probable organic brain syndrome; (8) bilateral lower lobe pneumonia. The original autopsy protocol and associated clinical documentation are of record.

According to the testimony provided by Captain Battaglino at the formal hearing held on appeal, at his request, a review was undertaken by Commander S. William Berg, United States Navy Medical Corps, Infectious Disease Staff, serving as the West Coast AIDS coordinator for the Navy. Commander Berg's memorandum regarding the cause and service-relatedness of the death of the veteran, is dated November 27, 1984. In pertinent part, that report reads as follows:

> "1. As you requested, I have reviewed (the veteran's) medical records, as well as some of my own records. It is my firm opinion that the best and most appropriate explanation for (the veteran's) death is that he had AIDS (Acquired Immune Deficiency Syndrome), acquired through one or more of the 21 blood transfusions he received April-June 1981. The transfusions were necessary because of complications (and complications of complications) of his service-connected diverticulosis and diverticulitis.
>
> "2. The major groups at risk for acquiring AIDS are gay/bisexual men (about 75% of reported cases), parenteral drug abusers (about 15%), Haitians (about 5%), and

hemophiliacs, heterosexual partners of AIDS patients, and recipients of blood products (about 1% each). There is no evidence (he) fell into any of the risk groups, except the last.

"3. Although the first cases of AIDS were being reported about the time (he) was transfused, and primarily in New York, San Francisco, and Los Angeles, it is now clear the syndrome was far more prevalent, in incubating form, than first realized. In (his) case, the two year period from his transfusions to his first episode of Pneumocystis carinii pneumonia fits nicely with what is felt to be the incubation period, two-three years.

"4. To assume that (the veteran) was unlikely to have acquired AIDS from his transfusions, since that blood came from young healthy recruit donors, is fallacious, and a bit naive. (1) Some blood is obtained from the San Diego County Blood Bank, (2) Recruits come from all over the country, (3) It is naive to assume no recruits have histories of drug abuse and/or homosexuality, (4) There was, and is, no screening test for AIDS, (5) Less than 10 percent of transfusion-related AIDS involves donors who had or developed AIDS. The majority, perhaps representing a "carrier" state, have remained healthy even though their victims developed AIDS.

"5. (The veteran) clearly met the Centers for Disease Control's (CDC) definition of an AIDS patient: A person with an opportunistic infection (in his case, Pneumocystis carinii pneumonia) at least reasonably indicative of an underlying immunosuppressive disorder, in the absence of other conditions which are immunosuppresive (sic). After two prior episodes of

ASS, Dee W.

pneumocystis pneumonia, he died of pneumonia due to pneumocystis, Staphylococcus aureus, and cytomegalovirus (CMV). In addition he had a disseminated CMV infection. This pattern is quite typical of that seen in patients dying of AIDS.

"6. Other data, strongly supportive but, by convention, not considered in making the diagnosis, include an inverted T-helper/T-suppressor cell ratio of 0.23 at the time of his initial diagnosis. (Normal 1.5 - 2.1) (T-helper cells were 13%, normal 51 ± 12%; T-suppressor cells were 56%, normal 27 ± 11%.) A ratio obtained just before his death was 0.5, however this was due to a profound diminution of all T-cells, with T-helper cells being 2 percent (normal: 30-60), and T-suppressor cells 4 percent (normal: 12-35), Enclosure 1. This end-stage depletion of T-cells is characteristic of AIDS.

"7. That same pre-death specimen was tested at the CDC for antibody to the human T-cell lymphocytotrophic virus type III (HTLV-III), now felt to be the etiologic agent of AIDS. According to Michele Ginsberg, M.D., San Diego County Health Department, the test was positive, indicating (he) had been infected with the AIDS agent. (False-positive tests are essentially nonexistent.)

"8. At the time of his initial diagnosis of AIDS, (the veteran) exhibited a mild polyclonal gammapathy, and a bone marrow examination revealed a mild (about 10%) increase in plasma cells. This raised the possibility that (the patient) might have had multiple myeloma, a type of cancer of the blood cells, which is known to be immunosuppressive. If this were true, (he) would not have met the CDC epidemiologic definition for AIDS, since he had an underlying disease known to be immunosuppressive.

> "9. John Nanfro, M.D., staff oncologist, felt at the time (he) first presented with AIDS, that he did not have multiple myeloma, but might have early or "pre" multiple myeloma, or might have an unrelated, benign, idiopathic polygammapathy. (The latter would not have been immunosuppressive.) Two subsequent bone marrow examinations, including one done at autopsy almost a year later, showed no progression toward multiple myeloma, which would have been expected if this were multiple myeloma. It is doubtful (he) had any sort of pre- or early myeloma syndrome, and if he did, it would have been much too mild to result in the degree of immunodeficiency (he) exhibited. Polyclonal gammapathy is also part of the AIDS spectrum.
>
> "10. Of far greater importance, the CDC's definition is an epidemiologic one, dating from the earliest days of the AIDS epidemic. Now that the etiologic agent is known, and a test to determine infection with that agent is available, better definitions are being formulated. The veteran clearly was infected with the AIDS virus, and that is certainly the best explanation of his recurrent illnesses and death."

A copy of a comprehensive laboratory report from the Centers for Disease Control in Atlanta, utilizing specimens taken from the veteran shortly before his death,was attached to Dr. Berg's memorandum.

The transcript of the testimony provided by the appellant and Captain Battaglino is of record. The appellant reported that she had been married to the veteran for over 35 years, that they had two children, and that there was no evidence whatsoever of his having had any homosexual contacts while in the Navy or at any time thereafter. She contended that there was no way that he could have acquired AIDS other than through the transfusions. She also testified concerning the status of other individuals in the San Diego County community who were suffering from AIDS, and referred to various newspaper clippings which were incorporated into the record.

Upon questioning, she indicated that her husband had had no significant infection prior to the series of problems which developed in 1981, and following his transfusions. Captain Battaglino testified that he had known the veteran since 1965 when they were both in Newport at the War College; that he had served under him and with him as a professional associate, considered himself to be a friend of the veteran and looked to veteran as his mentor. The Board members cited Captain Battaglino's effort in being instrumental in getting the original four volumes of record, and having copied pertinent portions thereof, and having pursued additional evaluative materials from Dr. Berg associated with the Balboa Naval Facility and considered the West Coast expert on AIDS. It was further clarified that the blood used by the U.S. Naval Hospital came both from their own sources within the Navy system as well as outside the system. The outside sources included the San Diego Blood Bank. It was noted that there was a significant problem in determining whether or not specific blood donors were capable of passing on AIDS in view of the fact that donors might well be carriers but not ill themselves. It was additionally noted that not all carriers ever developed AIDS; and that 90 percent of all transfusion-related AIDS cases came from carriers, not those who were ill with the disease. It was specifically noted that there were other individuals who had acquired AIDS as a result of similar circumstances. Several newspaper clippings concerning AIDS were introduced into the evidence, including one from The San Diego Union newspaper, dated April 20,1984,which specifically referred to the veteran and two other heterosexual men who had died as a result of AIDS which was felt to have been transmitted by blood transfusions. It was noted that two of the men, including the veteran, had received blood from the San Diego/Balboa Park community. The article said that additional evaluative procedures were being undertaken to clarify the questions raised.

THE LAW AND REGULATIONS

Service connection may be granted for disability which is proximately due to or the result of a service-connected disease or injury. (38 C.F.R. 3.310(a))

To establish service connection for the cause of the veteran's death, the evidence must show that the disability incurred in or aggravated by service either caused or contributed substantially or materially to cause death. For a service-connected disability to be the cause of death, it must be singly or with some other condition be the immediate or underlying cause, or be eticlogically related. For a service-connected disability to constitute a contributory cause, it is not sufficient to show that it casually shared in producing death, but rather it must be shown that there was a causal connection. (38 U.S.C. 410; 38 C.F.R. 3.312)

When a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant. A reasonable doubt means a substantial doubt and one within the range of probability, as distinguished from speculation or remote possibility. (38 C.F.R. 3.102)

DISCUSSION AND EVALUATION

We have carefully and sympathetically considered the evidence of record in this case, as well as the contentions advanced in association therewith. The veteran had an outstanding Naval career which extended from 1943 to 1946 and from 1949 until 1974. During his lifetime, he was service connected for a number of disorders, including diverticula of the duodenum and diverticulosis of the colon. It was these service connected entities which required his hospitalization in April 1981 with an obstructed colon. Treatment for the service connected disorder included surgery, during and after which his response required multiple blood transfusions. From the period from April 22 to June 27, 1981, the veteran received some 21 units of transfused blood. The main contentions in this case relate to the fact that the transfusions were necessary for treatment of his service connected gastrointestinal problems, and that the transfusions in turn were responsible for his acquiring AIDS; that the AIDS (Acquired Immuno-Deficiency Syndrome) deprived the veteran of his natural immune defenses to prevent infections, and that his lack of immunity allowed the classic opportunistic infection, pneumocystis carinii pneumonia, and other opportunistic infections, to cause his death.

In this regard, we are most appreciative of the research and development which has been accomplished by the appellant and the veteran's friend and associate, Captain Battaglino.

DOUGLASS, Dee W. XC 10 531 133

Before the Board at the present time are the voluminous treatment documents related to the veteran's postservice care, including the reports of transfusions, as well as the evaluative commentaries provided by Drs. Colby and Berg. We have reviewed the evidence in this case as well as additional research materials available at the present time regarding the disease AIDS. There are certain major groups at risk for acquiring AIDS, including gay/bisexual men, parenteral drug abusers, Haitians, hemophiliacs, some heterosexual partners of AIDS patients, and recipients of blood products. The Board is totally satisfied that there is no objective evidence to indicate that the veteran fell into any of the risk groups other than recipients of blood products. The herein concerned transfusions were given solely for the treatment of the veteran's service-connected diverticulosis and diverticulitis. Thus, the Board concludes that a reasonable doubt is raised as to whether there was a relationship between the veteran's service-connected gastrointestinal disorders and treatment rendered for those disorders commencing in 1981, and the AIDS which was the underlying cause of his death. That doubt must be resolved in favor of the claimant, and service connection is granted for the cause of the veteran's death due to AIDS.

FINDINGS OF FACT

1. The veteran had active service from July 1943 to May 1946, and January 1949 to June 1974. Service medical records and Veterans Administration examinations are not relevant.

2. The veteran was service connected for a number of disorders, including hiatal hernia, diverticula of the duodenum and diverticulosis of the colon.

3. During the period from April to June 1981, the veteran had 21 blood transfusions. The transfusions were necessary because of complications of and in association with treatment for his service-connected gastrointestinal disorders.

4. The veteran's death on April 10, 1984, was due to respiratory failure, the underlying cause of which was AIDS (acquired immunodeficiency syndrome).

DOUGLASS, Dee W. XC 10 531 133

5. A reasonable doubt is raised as to whether there is a relationship between the blood products used for postservice treatment of the veteran's gastrointestinal disorders in the period from April to June 1981, and the cause of his death due to AIDS in 1984.

CONCLUSIONS OF LAW

1. Evidence of record and resolution of reasonable doubt establish entitlement to service connection for AIDS (acquired immunodeficiency syndrome) as being secondary to treatment for service-connected disorders. (38 C.F.R. 3.102, 3.310(a))

2. Evidence of record and resolution of reasonable doubt establish entitlement to service connection for the cause of the veteran's death. (38 U.S.C. 410; 38 C.F.R. 3.102, 3.312)

DECISION

The appeal for entitlement to service connection for the cause of the veteran's death is established. The appeal is allowed.

Daniel J. Stein
DANIEL J. STEIN
(Substituting for R.D. Philipp, who is on leave)

U.H. Ang
U.H. ANG, M.D.

C.J. Sturek
C.J. STUREK

NATIONAL ASSOCIATION of MILITARY WIDOWS
4023 — 25th ROAD NORTH
ARLINGTON, VIRGINIA 22207

TELEPHONE: 703 — 527-4565

STATEMENT OF

THE

NATIONAL ASSOCIATION OF MILITARY WIDOWS

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE

COMMITTEE ON VETERANS AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

April 9,1987

Presented by

JEAN ARTHURS

Director, Legislative Affairs

The Secretary of the Army stated, "When the government contracts for the serviceman, it really contracts for the entire family unit, as it includes all the family in the adjusted lifestyle, the 24-hour call, the 'perils and discomforts' with readiness to serve anywhere, to go to hazardous places at a moment's notice. The service wife is expected to be ready to follow her husband to any assignment, or to remain cheerfully behind, and to always be an ambassador for the United States. These women have proven to be some of the best emissaries this country has ever had."

To care for him who has borne the battle, and his widow, and his orphan.
A. Lincoln

NATIONAL ASSOCIATION of MILITARY WIDOWS
4023 — 25th ROAD NORTH
ARLINGTON, VIRGINIA 22207

TELEPHONE: 703 — 527-4565

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am Jean Arthurs, president of the National Association of Military Widows, and we thank you for allowing us to provide testimony here today. We realize that over the years the work of this committee has benefited a great number of our widows whose sponsors have served and died for our country. The members of this committee are to be commended for their continued concern for the individuals who are affected by this committee's decisions.

Our association is an all-volunteer military widows organization and our membership represents all rates and ranks of career and non-career service widows of the seven uniformed services, Regular and Reserve. Our broad base has made us cognizant of the continuing need to help affect equitable legislation on behalf of these fine women who have served our country so well.

H. R. 1084 and H. R. 1427 and Indexing

We support H. R. 1084, which provides for a 3.5 percent cost-of-living increase in the dependency and indemnity compensation. Our surveys indicate that since the Viet Nam war a greater number of military widows relie on the DIC compensation as their only source of income. Again, we must say that in this time of Gramm-Rudman-Hollings, we are most grateful that these Veteran entitlements have been spared from the deletion of COLAS.

We favor H. R. 1427, which would restructure Title 38 by allowing the administration to pay death benefits at dependency and indemnity compensation (DIC) rates to the survivors of those servicemen who were totally disabled for ten years prior to death. The National Association of Military Widows has always stood for equitable rights and privileges among all survivors of the government services. The Administration's proposal to index compensation and DIC COLA's is long overdue.

In the economic realm of the widows, it is often considered a phenomenon as to how the cost-of-living index is computed. The cost of oil may be down, but in the every day living, inflation is constantly increasing. A recent survey indicates that rents has increased six percent each year for the last four years, transportation costs increase every year, and market basket items have climbed 18 to 36 percent in many categories. It was noted that one pound can of coffee has increased 80 percent in three years time.

H. R. 412 and H. R. 1547

H. R. 412 (Rep. Ree-N.J.) would allow the DIC widow to remarry after age 60 and retain the dependency and indemnity compensation. H. R. 1547 (Rep. Bilirakus:Fla) would allow the DIC widow to remarry at age 55 and retain the DIC compensation. The latter is in keeping with the current status of the Federal Survivor Benefit Plans. Social Security, the Retired Serviceman's Family Protection Plan, the Military Survivor Benefit Plan, The Civil Service and the Foreign Service Survivor Benefit Plans allow the annuitant to retain the entitlement or pension annuities when she remarries after age 55.

It is incomprehensible to the National Association of Military Widows that all other categories of widows of government services have been obliged with the remarriage after 55 factor — and still, the dependency and indemnity widows are not so entitled.

One fact is certain. There is no widow that has given more for her country through the death of her sponser than the DIC widow.

So few widows have the opportunity to remarry in later years. The cost can not be the contributing factor.

It would make it fair and equitable for the few who could do so.

Surely this Congress has the compassion to pass H. R. 412 and H. R. 1547 and help the token number of DIC widows over age 55 to escape the lonliness of widowhood into a respectable way of life.

In this day of high cost catastrophic illness and lingering, it would be cost effective for the government if the widowed singles could marry and care for one another in sickness and poor health.

PROPER NOTIFICATION OF S.91 LAW PASSED IN 1980

The National Association of Military Widows is still finding military DIC widows who have not been properly apprised of the Survivor Benefit Plan benefits accorded them, effective October 1, 1980.

At that time an amendment was passed to S.91 which awarded Survivor Benefit Plan benefits, effective October 1, 1980, to widows whose husbands were eligible to retire but who died on active duty, before September 21, 1972. There was no action taken to inform and officially notify the eligible recipients. None has been taken since.

Our association was informed through Veteran Administration officials that the matter could be solved quite simply. If so directed, a flyer could be inserted in the monthly DIC benefit check to clarify the law as passed in 1980.

CLARIFICATION OF DIC WIDOWS RIGHTS AT VA HOSPITALS

Several years ago at these hearings, Chairman Nichols asked if our widows were receiving proper care at the Veterans hospitals. Since that time we have noted a substantial increase in this category of military widows.

Ironically, I was informed by an official of the Veterans Administration that the statue did not include care for DIC widows in the VA hospitals.

The time has come to set the record staight. Dependency and Indemnity Compensation is based on the government's obligation to provide the surviving spouse a support substitution in exchange for the serviceman giving his life or his health and well-being, for our country. The majority of these families are not included in the Survivor Benefit Plan, P. L. 92-425, because the deceased sponser lacked 20 years of military career service.

This category of the military widows carries the Veterans Administration CHAMPVA identification card as a dependent or survivor beneficiary of VA.

One of our widows writes as follows, "I was widowed at 25 (my husband was age 31 with 13 years of service). My husband was active duty at his death. I had a child born 3 months after his death at Fort Ord, California. The only complaint I have is that the DIC widow cannot use Veterans hospital facilities. The retired widow can use both VA and active duty facilities. We have a VA hospital one-half mile from our house and can't even get prescriptions filled there. The closest active duty hospital is 150 miles away. I feel I should have the benefit of the VA facilities as well as the active duty facilities. My husband gave more than any retired person has given.

The DIC for myself and four children (ages 15, 12, 11 and 06) is under $800.00 The VA takes all but $251.00 per month for our house payment. A 100% mentally disabled veteran receives approximately $1500.00 per month."

Another letter is to the point. "The Veterans Administration reduced my pension to $5.00 - not worth mailing to me. I am 63 years old. I can't afford Medicare but I need my medicines. My husband gave his life for this. Can your group help me?"

As these widows age they are finding the cost of medical care and the filling of prescriptions prohibitive and they need help.

We are hopeful that the wisdom and enlightened judgment of this Committee will provide the just and equitable treatment for the families of the front line defenders of our freedoms which they so justly deserve and which have been so long denied.

Thank you for allowing me to testify on behalf of the military widows. I will be glad to answer any of your questions. Thank you.

Jean Arthurs
President

6.

Veterans Administration

In Reply Refer To: 688/136E

TATE, JAMES E.
XC 3-871-314

November 1, 1982

Mrs. Doris P. Persinger
463 Armistead Street
Lincolnia, Va. 22312

Dear Mrs. Persinger:

As a result of your recent inquiry concerning medical care benefits to dependents and survivors under Public Law 93-82, Public Law 94-581, and Public Law 96-151, we wish to furnish you this information.

The following persons may be determined eligible as dependent and survivor beneficiaries of the Veterans Administration for medical care and services under CHAMPVA (Civilian Health and Medical Care Program of the VA), provided they are not now eligible for care under CHAMPUS or Medicare:

a. The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability.

b. The surviving spouse or child of a veteran who has died as the result of a service-connected disability, or who at the time of death had a total disability, permanent in nature, resulting from a service-connected disability.

c. The surviving spouse or child of a person who died while on active duty.

Persons who meet the dependent and survivor requirements as defined above may apply for CHAMPVA by completing the enclosed VA Form 10-10d, Application for Medical Benefits for Dependents or Survivors. Please complete the necessary items of information as specified on the form, and be sure to include the names of your children and their birth dates. It is important that you include the veteran's identification data, including veteran's name and file number (claim number). Return the completed application to the VA health care facility address on this letterhead. When the application is received, the VA facility will determine eligibility and notify you accordingly.

If determined eligible for medical care benefits under CHAMPVA, survivors and dependents will receive appropriate identification and information concerning the method of filing claims for medical care received from private sources.

Sincerely yours,

fm/ Howard L. Ward
Chief, Medical Administration
Service

Enclosure: 10-10D

FL 10-441
Nov 1980 (RS)

VETERANS ADMINISTRATION CHAMPVA

DEPENDENT OR SURVIVOR BENEFICIARY OF V.A.

POSTMASTER RETURN TO VETERANS ADMINISTRATION DEPT OF MED & SURG WASHINGTON, D.C. 20420

EXPIRATION DATE 11/5/1989

SIGNATURE OF BENEFICIARY OR HIS LEGAL GUARDIAN

SYSTEM NO. VA 688

PARALYZED VETERANS
OF AMERICA

Forty Years of Service
1947–1987

STATEMENT

OF

FRANK R. DEGEORGE, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION & INSURANCE

OF THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

REGARDING

H.R.1084, providing a 3.5 percent cost-of-living increase for compensation and DIC; H.R.1427, making minor improvements for DIC; H.R.1543 and H.R.1544, providing improved benefits for former prisoners of war; and, the Administration's proposal to index compensation and DIC Cola's

APRIL 9, 1987

Mr. Chairman and Members of the Subcommittee, on behalf of the members of Paralyzed Veterans of America, I want to thank you for this opportunity to present our views regarding the stated above legislation, and above all, for your continuing pursuits to improve the important programs that effect veterans and their dependents. I am Frank R. DeGeorge, PVA Associate Legislative Director.

Mr. Chairman, your effort to introduce H.R. 1084, to provide a 3.5 percent cost-of-living increase for Compensation and Dependency and Indemnity Compensation payment, effective December 1, 1987, are consistent with your efforts of the past, which contribute to the historical intent of Congress to insure that veterans', their dependents' and survivors' benefits are provided for at an appropriate level of maintenance. You are commended for submitting the "Veterans' Compensation Amendments of 1987," H.R. 1084, which in itself preserves the authority and appropriations processes of the Congress to determine what is necessary and to provide cost-of-living increases to the Nation's veterans, their dependents and survivors.

The Administration's proposed Fiscal Year 1988 Veterans Administration budget includes proposed legislation that would index compensation benefits to the annual change in the Consumer Price Index. The Administration contends that, if enacted, this proposal would guaranteee a full and timely cost-of-living adjustment to compensation beneficiaries, including DIC spouses and children. The Administration's proposal includes a cost-of-living increase currently estimated at 3.5 percent, effective December 1, 1987.

This legislative proposal to index compensation by the Administration is absolutely unacceptable to PVA, and we will oppose it. We believe it is an attempt to undermine and bypass the responsible authority of Congress. The COLA has required Congressional action annually, a process which PVA continues to believe ensures Congressional control and results in greater flexibility and fairness in a fluctuating economic climate.

H.R. 1427

PVA supports the language contained within H.R. 1427, a bill which defines in its own section, D.I.C. benefits payable to eligible dependents when the veteran is not killed during active duty or does not die from service-connected disabilities, but has been rated totally disabled 10 or more years immediately preceding death; or if rated for a lesser period of time, was rated totally disabled not less than five years from date of veteran's discharge. The specific language and provisions of this bill are contained in current law; therefore, PVA sees no reason not to add a specific section within Title 38 for this bill.

DEPENDENCY AND INDEMNITY COMPENSATION

Regarding the Dependency and Indemnity Compensation (DIC) program, which cares for the service-connected disabled veterans' survivors, I would like to take advantage of this opportunity to reiterate PVA's longstanding position, as we remain discontented by the awarding of DIC benefits based on military pay grade rather than on the veteran's degree of disability.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active military service. However, when a service-connected disabled veteran dies from service-connected injuries years after termination of military service, we believe, and have testified on numerous occasions, that there is little or no correlation for using military pay grade as the basis for computing the DIC benefit for a surviving spouse.

It is well documentod that the cost of continous attendant care can greatly exceed the maximum aid and attendance allowance (A&A) given for service-connected disabilities. Furthermore, as is often the case, the spouse of a severely disabled veteran provides the extensive care needed by the veteran because of his service-connected disability.

The result is that despite a helpful A&A allowance, the spouses of service-connected disabled veterans often must provide daily time-consuming services which these veterans cannot obtain or provide for themselves. Spouses' services produce great savings for the government in situations where, without their assistance, veterans otherwise would require institutional care. This savings, reflected by in-home care provided by the spouse, cannot be overemphasized, especially when considering the astronomical cost of medical care today.

Most veterans, especially those who served in wartime, were not careerists, but were citizen soldiers who simply answered their nation's call to duty. Consequently, the majority served in the lower military pay grades, where debilitating injuries were most prevalent. Basing DIC on military pay grade, not on the degree of disability, therefore leaves many surviving spouses with inadequate benefits after the death of the veteran. This happens despite the service rendered to the nation, both by the veteran and by the surviving spouse who had assisted the veteran in living a meaningful life, free from costly institutions.

Upon becoming widowed, a surviving spouse who receives DIC may be willing to seek employment, but in many cases she would not have marketable skills (due

to the constant care that she provided the veteran until his death). In addition, the spouse often must seek employment at an unrealistic and most difficult time in life, a time when others of comparable age are beginning their retirement.

PVA proposes that the formula for computing a surviving spouse's DIC rate be established at 75 percent of the deceased veteran's monthly compensation benefit, excluding the portion paid for the veteran's aid and attendance. PVA must emphasize that present beneficiaries must not be harmed by any amendment of the DIC program. That is, existing beneficiaries should be "grandfathered" under the current law, if it is not to their benefit to elect DIC payments under the new rate structure.

PVA has long supported the need for an adequate survivor benefit program. The spouse and family members of certain eligible veterans, especially those catastrophically disabled, must be protected in the event of the veteran's death. Indeed, the Committees on Veterans' Affairs and Congress, have demonstrated their mutual concern for these needs by passage of prior legislation. However, PVA further believes that a periodic review of these programs is imperative.

H.R. 1543 and H.R. 1544

Importantly, H.R. 1543 and 1544, as initiated and re-introduced by the Honorable Douglas Applegate, will provide appropriate recognition to improve veterans' benefits for former Prisoners of War by amendment of Title 38, U.S.C., to add presumption of service-connection for certain disabilities.

They are:

1) improving the "Definition of Former Prisoners of War"
2) spastic colon;
3) reduction of the internment period required for VA dental care from six months to 90 days.
4) peripheral neuropathy due to trauma
5) peptic or duodenal ulcers

As PVA has previously stated these provisions more clearly recognize and relate to the diversity and the ill treatment received by military personnel who have suffered through the ordeals, undeniable experiences, as prisoners of war. Amendment of the current law to add these certain illnesses incurred by POWs is realistic. Regardless of the number, large or small, of military personnel who may have experienced and were subject to the whim of the enemy military and/or government forces, PVA strongly believes this corrective legislation is warranted, asnd possibly overdue.

By virtue of amendment of Title 38, PVA applauds the consideration of this Subcommittee to recognize the experiences of former Prisoners of War. PVA believes, as Members of this Subcommittee do, that the services rendered by veterans who were former POWs can never be fully compensated by our grateful nation, and we are in accordance with the purpose of H.R. 1543 and 1544. Mr. Chairman, PVA wholeheartedly supports the favorable and expeditious passage of these measures.

Again, PVA appreciates the invitation to appear here today; we applaud the efforts of the Chairman and Members of this Subcommittee to address these issues, and, as well, the dedicated efforts of your staff. I will be happy to answer any questions that I can.

Statement of

The American Legion

1608 K STREET, N. W.
WASHINGTON, D. C. 20006

by

PAUL S. EGAN, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE COMMISSION
THE AMERICAN LEGION

and

PHILIP R. WILKERSON, ASSISTANT DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION

before the

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

on

VA COMPENSATION ADJUSTMENTS

on

April 9, 1987

STATEMENT OF PHILIP R. WILKERSON, ASSISTANT DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
APRIL 9, 1987

Mr. Chairman and Members of the Subcommittee:

The American Legion is appreciative of this opportunity to share with you its views on three measures under consideration today, all of which call for improvements in benefits payable by the Veterans Administration to veterans who were disabled in service to this nation and to the survivors of those who were killed in action or died as a result of their service-connected disabilities.

H.R. 1084 - the "Veterans Compensation Amendments of 1987" would increase by 3.5 percent the monthly rates of disability compensation for service-connected disabled veterans, additional compensation for dependents, the annual clothing allowance for certain disabled veterans, the rates of dependency and indemnity compensation for surviving spouses and children, and the rates of supplemental dependency and indemnity compensation for children. These proposed amendments shall become effective on December 1, 1987.

Section 314 of title 38, United States Code, currently provides for the payment of compensation in amounts ranging from $69 to $1,355 monthly to those veterans with service-connected disabilities rated from ten percent to one hundred percent or totally disabling. Higher rates of special monthly compensation are payable for certain multiple disabilities evaluated in excess of one hundred percent.

Section (2Xb) of this bill would allow that the Administrator of Veterans Affairs may adjust administratively, consistent with the increases authorized in this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857, who are not in receipt of compensation payable pursuant to Chapter 11 of the title.

Additional monthly compensation for dependents is currently provided under section 315 of the title for the spouses, children and dependent parents of those veterans entitled to disability compensation and whose service-connected disabilities are rated not less than thirty percent disabling.

An annual clothing allowance of $365 is authorized under section 362 of the title to each veteran who, because of a compensable disability, wears or uses a prosthesis or orthopedic appliance or appliances which the Administrator determines to wear out or tear the clothing of such veteran.

Dependency and indemnity compensation is payable under section 411(a) of the title to the surviving spouse of a veteran killed in action or who dies of a service-connected disability. Monthly benefits are based upon the military pay grade of the individual upon whose service-connected death entitlement is attributed. These pay grades range from E-1 through O-10, and the current monthly benefits under the DIC program range from $498 to $1,274. Subsection (b) provides that where there is an eligible child or children of the veteran, these rates are now increased by $58 for each child under the present law. Subsection (c) and (d) relate to additional monthly benefits for surviving spouses who are determined to be in need of aid and attendance or housebound. The current monthly rates are $149 and $73 respectively.

Mr. Chairman, the latest increase in the monthly rates for disability compensation, dependency and indemnity compensation, and related benefits was a 1.5 percent COLA provided under Public Law 99-576, effective December 1, 1986. The American Legion is strongly supportive of periodic adjustments in service-connected disability and death benefits to allow those entitled to receive the benefits to keep pace with increasing costs of goods and services. The rates payable must be responsive to increases in the cost-of-living as measured by the Consumer Price Index. The Delegates to our 1986 National Convention adopted Resolutions Number 72 and 492 that mandate The American Legion to support legislation to provide cost-of-living increases in these benefits (copies attached). The 3.5 percent called for by H.R. 1084 appears to be consistent with the projected trend of the Consumer Price Index for the remainder of 1987.

H.R. 1427 proposes to amend title 38, United States Code, to recodify provisions

currently contained in section 410(b) relating to dependency and indemnity compensation benefits, payable to survivors of certain veterans rated totally disabled at the time of death, into new section 418. This proposal would also reduce the period of time which the surviving spouse must have been married to the veteran prior to death to be entitled to DIC benefits from two years to one year. The effective date of these changes shall be October 1, 1987.

The American Legion has no objection to either of these provisions.

Mr. Chairman, before discussing the next two legislative proposals, which, if enacted, would provide certain improved benefits for former prisoners-of-war, we wish to state that The American Legion has been extremely supportive of a variety of measures over the years intended to address the immediate as well as long-term consequences of the prisoner-of-war experience by former members of our Armed Forces. Continued observation and scientific studies of this special group of veterans has indicated that from time to time health problems directly associated with the hardships and conditions of their confinement have not been adequately addressed by the presumptive provisions of section 312(b) of the title. Most recently, Public Law 99-576, "The Veterans' Benefits Improvement and Health-care Authorization Act of 1986", expanded the listing of presumptive disabilities for which service connection might be granted in claims by former prisoners-of-war, to include the residuals of frostbite and post-traumatic osteoarthritis. Despite the progress represented by the passage of Public Law 99-576, The American Legion remains concerned that a number of conditions affecting substantial numbers of former prisoners-of-war have not as yet been included among the disabilities enumerated in section 312(b) nor have they been acknowledged by the Veterans Administration as being adjunct or secondary to one of these presumptive disabilities. The Delegates to The American Legion's 1986 National Convention adopted Resolution Number 331, which reiterates The American Legion policy on presumptive disabilities of former POWs (copy attached). This resolution places the Legion in a position to support legislation to amend section 312(b) of the title so as to expand the list of presumptive disabilities in the absence of demonstrable intercurrent causes or injury to include:

1. Hepatitis or infectious diseases of the liver;
2. Organic residuals of hypothermia;
3. Arthritis;
4. Peripheral neuropathy;
5. Chronic pulmonary disease (where there is a history of forced labor in mines during internment).

The resolution also mandates the Legion to support the amendment of section 612(b)(1)(G) of the title to reduce from six months to thirty days the period of time a former prisoner-of-war must have been detained or interned in order to be eligible for outpatient dental treatment by the Veterans Administration.

H.R. 1543 proposes to amend title 38, USC to remove from section 101(B) the clause "during a period other than a period of war in which such a person was held" from the definition of the term "former prisoner-of-war." Section 312(b) would be amended to include new clause "(13) spastic colon" among the disabilities for which presumptive service connection may be granted. Section 612(b)(1)(G) would be amended to reduce the period of time during which a veteran must have been held as a prisoner-of-war to be eligible for outpatient dental treatment from the Veterans Administration, from six months to ninety days. The effective date of these amendments shall be October 1, 1987.

The American Legion has no objection to the proposal to amend the definition of the term "former prisoner-of-war" to permit prisoner-of-war status to be accorded individuals forcibly detained or confined by any foreign government, its agents, or a hostile force whether during a period of war or peacetime, so long as the circumstances of such detention or confinement are found by the Administrator of Veterans Affairs to have been comparable to forced detention or internment by enemy governments during periods of war.

Since the proposals for inclusion of spastic colon among the list of presumptive disabilities enumerated in section 312(b) of the title; and the reduction of the period of

confinement for eligibility for VA outpatient dental treatment from six months to sixty days, are almost identical to those proposed in H.R. 1544, our comments thereon are set forth under that measure.

Mr. Chairman H.R. 1544 proposes to amend title 38, USC, section 312(b) to add to the list of presumptive disabilities: "(13) peripheral neuropathy due to trauma; (14) spastic colon; (15) peptic or duodenal ulcers." Section 612(b)(1)(G) would be amended to reduce the period of time during which an individual must have been held as a prisoner-of-war to be eligible for Veterans Administration outpatient dental treatment from six months to ninety days.

Our understanding of the intent of this proposal is that a current medical finding of peripheral neuropathy wherein there is a history of beatings, torture, or physical trauma during capture or confinement would be recognized as service-connected, in the absence of intercurrent causes or injury. The American Legion supports the inclusion of this provision as it partially satisfies the intent of our mandate.

With regard to the inclusion of spastic colon, duodenal and peptic ulcers among the presumptive disabilities, The American Legion is keenly aware that many former prisoners-of-war suffer from a variety of physical and mental disorders some of which may directly affect the gastrointestinal system. The broad language of H.R. 1543 and 1544 provides blanket presumption for spastic colon and duodenal and peptic ulcers without establishing the necessary causal relationship between the current medical problem and the prisoner-of-war experience. There is no requirement stated with regard to the chronicity of symptomatology or diagnosis. For this reason, The American Legion would unfortunately not be able to support this change in the title, without additional descriptive information.

With regard to the proposal to reduce the period of confinement for eligibility for VA outpatient dental treatment, The American Legion would be supportive of the proposed reduction from six months to ninety days. However, it does not wholly meet the requirement of thirty days confinement sought by our current mandate.

Mr. Chairman, that concludes our statement.

Attachments: Res. No. 72 - 1986 Natl. Conv.
Res. No. 492 - 1986 Natl. Conv.
Res. No. 331 - 1986 Natl. Conv.

THE AMERICAN LEGION
SIXTY-EIGHTH ANNUAL NATIONAL CONVENTION
CINCINNATI, OHIO
SEPTEMBER 2, 3, 4, 1986

RESOLUTION NO.: 72

CONVENTION COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

SUBJECT: SUPPORT LEGISLATION TO AMEND SECTION 314, 38, USC, SO AS TO INCREASE THE MONTHLY RATES OF DISABILITY COMPENSATION

WHEREAS, Disability compensation is a monthly payment made by the Veterans Administration to a veteran because of a service-connected disability; and

WHEREAS, These disability compensation payments are based on a schedule of ratings of reduction in earning capacity from specific injuries or combination of injuries adopted by the Administrator of Veterans Affairs; and

WHEREAS, In response to increased cost of living and other factors, the weekly take home pay of the blue collar worker in non-agriculture employment is constantly increasing; and

WHEREAS, To maintain the purchasing power of these disabled veterans, or those entitled to receive these monthly benefits, the rates payable must respond to cost-of-living increases; and

WHEREAS, It is the opinion of The American Legion that there is no way to adequately compensate a veteran for loss of ability to be a working, productive member of our society, and that the monthly rates of disability compensation do not adequately compensate these disabled veterans for their loss due to reduced earning capacity; and

WHEREAS, The American Legion believes a further readjustment in the amount of disability compensation rates is needed so that these veterans can fulfill their fundamental purpose, that is, to assure that they have sufficient economic maintenance; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, September 2, 3, 4, 1986, That The American Legion support legislation to amend section 314 of title 38, United States Code, to increase the monthly rates of disability compensation.

THE AMERICAN LEGION
SIXTY-EIGHTH ANNUAL NATIONAL CONVENTION
CINCINNATI, OHIO
SEPTEMBER 2, 3, 4, 1986

RESOLUTION NO: 492

CONVENTION COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

SUBJECT: SUPPORT LEGISLATION TO AMEND SECTION 411, 38, USC, SO AS TO INCREASE THE MONTHLY RATES OF DEPENDENCY AND INDEMNITY COMPENSATION

WHEREAS, The Servicemen's and Veterans' Survivors Benefits Act, effective January 1, 1957, established the dependency and indemnity compensation (DIC) program for those widows and children of servicemen and veterans who die of service-connected causes; and

WHEREAS, This Act, as amended, established a grade-related system of monthly DIC payments to eligible survivors; and

WHEREAS, As now provided under authorizing legislation, the Congress, from time to time, must enact legislation to provide cost-of-living increases for those widows and children receiving, or who may become eligible to receive DIC payments; and

WHEREAS, The American Legion believes that to maintain the purchasing power of these widows and children, or those entitled to receive these monthly benefits, the rates payable must be increased; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, September 2, 3, 4, 1986, that The American Legion support legislation to amend section 411 of title 38, United States Code, to increase monthly rates of dependency and indemnity compensation.

THE AMERICAN LEGION
SIXTY-EIGHTH ANNUAL NATIONAL CONVENTION
CINCINNATI, OHIO
SEPTEMBER 2, 3, 4, 1986

RESOLUTION NO.: 331

CONVENTION COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

SUBJECT: THE AMERICAN LEGION POLICY ON PRESUMPTIVE DISABILITIES OF FORMER POWS

WHEREAS, In its concern for the welfare of all those who have served in the nation's Armed Forces, one of the major concerns of The American Legion has been the welfare of those who have been prisoners of war; and

WHEREAS, The American Legion has supported various legislative measures intended to alleviate the disabilities that afflict former POWs as a result of experience during internment; and

WHEREAS, Most recently The American Legion supported enactment of Public Law 97-37, the Former Prisoners of War Benefits Act of 1981, approved August 14, 1981; and

WHEREAS, There are now surviving approximately 85,000 former POWs of the four American Wars of the Twentieth Century; and

WHEREAS, Continued observation of their condition during the years subsequent to their internment indicates additional health problems probably associated with the internment; and

WHEREAS, The United States has a fundamental obligation to do all possible to alleviate any and all health problems of former POWs, and see to their physical, social and economic well-being; and

WHEREAS, There is an apparent need to further modify the current provisions of title 38, United States Code that provide for former POWs; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, September 2, 3, 4, 1986, that The American Legion shall support legislation to amend section 312 of title 38, United States Code, in such a way as to provide presumptive service connection for the following conditions in the absence of demonstrable intercurrent disease or injury;

1. Hepatitis or other infectious diseases of the liver;
2. Organic residuals of hypothermia, e.g., trench foot, immersion foot or hand, Raynaud's Disease
3. Arthritis
4. Peripheral neuropathy;
5. Chronic pulmonary disease (where there is a history of forced labor in mines during internment);

and, be it further

RESOLVED, That The American Legion support amendment of section 612(b)(1)(G) of title 38, USC, to strike out the words "six months" and insert in lieu thereof the words "thirty days,"; and, be it finally

RESOLVED, That The American Legion shall support any and all efforts on the part of the United States Government to alleviate and ameliorate social, economic and physical disabilities experienced by former POWs where such disabilities can reasonably be attributed to the effects of internment by the enemies of the United States.

and, be it further

RESOLVED, That The American Legion support amendment of section 612(b)(1)(G) of title 38, USC, to strike out the words "six months" and insert in lieu thereof the words "thirty days,"; and, be it finally

RESOLVED, That The American Legion shall support any and all efforts on the part of the United States Government to alleviate and ameliorate social, economic and physical disabilities experienced by former POWs where such disabilities can reasonably be attributed to the effects of internment by the enemies of the United States.

STATEMENT OF

GORDON R. THORSON, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION
AND PRISONERS OF WAR

WASHINGTON, D. C. APRIL 9, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

The Veterans of Foreign Wars welcomes this opportunity to express the viewpoint of the more than 2.7 million men and women of our proud organization and its Ladies Auxiliary.

Mr. Chairman, we note that you have introduced the legislation under consideration today and must compliment you and the other members of this subcommittee for your continued efforts to further develop VA benefit programs. Each bill is intended to improve veterans benefits by amending title 38 of the United States Code. As is our usual practice the VFW will get directly to the point of this hearing and discuss each bill in the order of introduction.

H.R. 1084, provides a 3.5 percent increase in the rates of compensation and dependency and indemnity compensation (DIC) paid by the Veterans Administration to be effective December 1, 1987. In recent years compensation and dependency and indemnity compensation adjustments have paralleled the CPI indexed cost-of-living increases in social security. Projections now suggest that a 3.5 percent increase in social security rates will be necessary when adjustment occurs in December of 1987. Consequently, H.R. 1084, is right in line with this adjustment as it recommends a comparable increase. The VFW is in favor of H.R. 1084 as our organization clearly supports continued cost-of-living adjustments.

H.R. 1427 is designed to recodify certain provisions relating to benefits for surviving spouses and children of veterans. Title 38 of the United States Code currently allows benefits at DIC rates even if the veteran's death was not due to service-connected causes if the veteran was rated totally disabled at the time of death and had been so rated for a specified period as described in section 410(b) of the Code. H.R. 1427 appears only to change the length of time the surviving spouse must be married to the veteran prior to death to become eligible for DIC. We can find no reason to object to lowering the time period from two years to one year immediately preceding death. In fact, we suggest that this program could be further improved by extending the proposed legislation to provide benefits to a surviving spouse who was married less than one year provided a child was born of the marriage. This amendment would make the proposed law even more uniform and in line with current VA programs.

H.R. 1543 and H.R. 1544 are both intended to improve veterans' benefits for our former prisoners of war. These two bills have much in common and in combination would offer: 1.) An amended definition of the term "former prisoners of war," 2.) Additional presumptive service-connected conditions to include: spastic colon, peripheral neuropathy due to trauma and peptic or duodenal ulcers, 3.) and, a shorter period of internment needed to become eligible for VA dental treatment.

The Veterans of Foreign Wars is long on record as supporting expanded POW presumptive disabilties along with being in favor of lowering the period of internment time needed to qualify for VA dental care. During our most recent National Convention the voting delegates passed Resolution Number 657 in favor of expanding POW presumptions. (A copy of VFW Resolution Number 657 is attached). We continue in that position and, therefore, support the enactment into law of H.R. 1543 and H.R. 1544.

The final issue under consideration today is the Administration's proposal to index VA compensation and DIC cost-of-living adjustments (COLA). Unfortunately, the President has proposed several legislative initiatives through the years which would adversely impact on services provided to veterans and their dependents by the VA's Department of Veterans Benefits. The indexing of the annual cost-of-living adjustment to the Consumer Price Index for VA disability compensation and DIC benefits is another such proposal. We believe that indexing would diminish congressional oversight of these programs. The Veterans' Affairs Committees and the entire Congress have historically been very fair and compassionate in addressing the needs of our nation's service-connected disabled veterans and we foresee no benefit in substituting the personal congressional attention veterans now enjoy with an automatic process. The VFW has much confidence in the House Veterans' Affairs Committee, as experience has clearly demonstrated your personal attention ultimately results in the provision of needed and ongoing program improvements. This hearing today is an example of that very oversight and improvement process. For this reason, because we do not want veterans to be deprived of any of your personal attention, the VFW opposes the indexing of compensation and DIC cost-of-living adjustments. Again, thank you, for this opportunity to express our viewpoint.

LEGISLATIVE STATEMENT OF THE BLINDED VETERANS ASSOCIATION
AS PRESENTED BY
THOMAS H. MILLER, DIRECTOR OF GOVERNMENTAL AND COMMUNITY RELATIONS
BEFORE THE SUBCOMMITTEE ON
COMPENSATION, PENSION, AND INSURANCE OF
THE HOUSE COMMITTEE ON VETERANS AFFAIRS

APRIL 9, 1987

Mr. Chairman and members of the Sub-committee:

Thank you for the opportunity to appear before you this morning to present the views of the Blinded Veterans Association (BVA) on the four bills under consideration by this Sub-committee. The BVA is most appreciative of the efforts of this Sub-committee in past years to introduce the appropriate legislation to insure that the provision of necessary and equitable benefits be provided to disabled veterans. This year is no exception. We are very supportive of the four bills under consideration this morning: The Cost of Living Adjustment (COLA), improved benefits to former prisoners of war (POW's) and amendment of the Dependency and Indemnity Compensation (DIC) paid by the VA.

The BVA strongly supports passage of HR 1084 which provided for a 3.5 percent COLA for service connected (SC) veterans and recipients of DIC benefits. We are all well aware of the increasing cost of living and the difficulty all Americans have in trying to sustain their standard of living and meet their basic needs. We are grateful that over the past several years, the inflation rate has remained low, but current indications point to a more significant increase this year. Consequently, it will be more important to have an adequate COLA in order to keep pace. We understand and are supportive of the concept that the actual COLA will be influenced by the Consumer Price Index (CPI) near the end of the year.

The BVA is strongly opposed to any attempts to index the COLA to the CPI as recommended by the administration's budget proposal. We feel that the COLA should be in the hands of the Veterans Affairs Committees and Congress should make the final determination. This policy has worked very well in the past and Congress has not given (BUDGET BUSTING) COLAs to disabled veterans in the past and certainly will not be doing so in the future. It appears this recommendation is another attempt to rest control of veterans programs away from the Veterans Affairs Committees placing such control in the hands of other agencies or departments, who are not knowledgeable of these programs and may not be committed to our nation's veterans.

The two bills, HR 1543 and 1544, to improve benefits for former prisoners of war, certainly have the support of the BVA. Even those of us severely wounded in combat have difficulty in relating to long periods of captivity and all the associated trauma. Everything possible should be done to provide reasonable assistance in compensating these individuals for thier past and current suffering that relates to their period of captivity. Presumed SC for spastic colitis seems reasonable, as well as reducing the time in captivity necessary to be eligible for dental benefits.

Although HR 1427, amending Title 38 U.S. Code to change the length of marriage required to entitle a spouse to be eligible for DIC from two years to one, does not address the inequity that exists in computing benefits under this program. BVA is supportive of this action.

We still feel very strongly, however, that the method of computing benefits needs revision because of the extreme hardship this places on widows and dependent children.

We recognize that the kind of revisions we have recommended in previous testimony could be quite costly and the need for fiscal restraint is absolutely criticle if we are to reduce the federal deficit to manageable levels. It would be advisable for Congress, the VA and Veterans Service Organizations to utilize this period of fiscal restraint in a collaborative effort to reach agreement on an acceptable solution to the problem. This accomplished, the necessary amendments could be introduced at the appropriate time. There appears to be concensus among nearly all parties concerned that something needs to be done, so lets get about the business of determining the best way of resolving the issue making the DIC program more equitable

NMFA
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(703) 841-0462 (703) 841-0121

STATEMENT OF

THE NATIONAL MILITARY FAMILY ASSOCIATION
on
DEPENDENCY AND INDEMNITY COMPENSATION

for

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

April 9, 1987

Prepared by

ROSEMARY A. LOCKE

Dependency and Indemnity Compensation Chairman

For Official Use Only Until
Released by the Subcommittee

Mr. Chairman and Members of the Committee:

The National Military Family Association (NMFA) is a volunteer, non-profit organization of family members and personnel (active duty, reserve or retired) of the seven uniformed services. Our mission is to serve as advocates for military families by influencing the development and implementation of policies that affect their lives. We welcome this opportunity to express our views on Dependency and Indemnity Compensation (DIC) and to ask for your continued support of this program. DIC must be considered as the most significant government program for survivors of service members who die on active duty or of a service connected disability.

In previous testimonies presented before this Committee, the National Military Family Association has presented an overview of military family life, past and present--a unique way of life which requires dedication, commitment and sacrifice. You have been sensitive to that unique commitment and have supported increases for DIC recipients.

NMFA requests a fair cost-of-living increase this year for the widows, children and the other survivors covered by the DIC program. We also request that the Committee consider bringing the DIC entitlement into conformity with other federal survivor programs which allow surviving spouses to remarry at age 55 and retain benefits.

The remainder of our statement will address a very serious problem. Most military family members, whether active duty or retired, know little or nothing about Dependency and Indemnity Compensation benefits. NMFA has sponsored numerous seminars on military benefits. On each occasion, it has been disheartening to discover that the majority of service spouses attending had so little knowledge about DIC.

How can active duty service families make adequate plans for their financial security without a good knowledge of DIC and how it may relate to other government programs? Unfortunately, most members serving on active duty assume that in the

event of their death, someone from the service will see to it that his/her family receives all of the benefits due. Sometimes a well informed person from casualty assistance is available to help the surviving spouse through this traumatic time, but that is not always the case. The assistance provided to survivors of active duty and retired servicemembers varies widely by military service and from post to base. Moreover, if the survivors are initially helped to receive DIC payments, who assists or counsels when circumstance change; e.g., when children reach college age or a spouse remarries?

The problem of receiving DIC benefits can be almost insurmountable to the survivors of a retired servicemember who dies of service connected disabilities. The volume of paperwork involved in establishing a claim with the Veterans' Administration (VA) can make it impossible for survivors to obtain this entitlement. One NMFA member living in the Washington, D.C. area was unusually fortunate in obtaining help from a professional skilled in working with the VA. Even with this expert's help it took her three years after the death of her husband to obtain the DIC benefits for herself and her children. The service widow who does not live near a military community is usually unable to find any help in obtaining service benefits.

Getting the information to service spouses on military /DIC benefits has been a long standing problem without any easy solution. Some bases provide general orientations on military benefits to active duty servicemembers and their spouses; others do not. And, a retirement seminar is usually available for retiree but not all spouses attend. At one time, there was a standard Department of Defense (DoD) booklet called Your Personal Affairs which described the various survivor benefits available through DIC, but this booklet is no longer used. When it was available, few service spouses had a copy. Each service has a comprehensive retirement book which includes information of VA benefits, but much of that information needs to reach young, active duty service families who should be making plans for their financial

security.

One suggestion for improving the flow of information would be to have a military benefits booklet accompany the ID card when it is issued. Psychologically, that would be the ideal time to present this vitally important information directly to the spouse. With a valid ID card, the spouse is eligible to use commissary, exchange and military medical facilities. The information presented in a benefits booklet would make the service spouse equally aware of the other valuable benefits which are available to the military family.

The National Military Family Association would welcome the opportunity to work with this Committee and the Department of Defense on ways to make the information on DIC more available to service families and approaches to make the application for these benefits easier for the survivors.

We thank you for this opportunity to again comment on DIC, a program which is of vital importance to military families.

VETERANS OF WORLD WAR I
OF THE U.S.A., INC.

STATEMENT FOR THE RECORD

by

WINSTON M. ROCHE'
National Legislative Director
Veterans of World War I of the U.S.A., Inc.

for the

Subcommittee on Compensation, Pension and Insurance
334 Cannon House Office Building
Washington, D. C.

April 9, 1987

74-826 0 - 87 - 7

Mr. Chairman and Members of this Distinguished Committee:

We are pleased to submit for the record, the thinking and feelings of the Veterans of World War I, the "Old Soldiers of 1917-1918," with regards to H.R. 1084, providing a 3.5 percent cost-of-living increase for compensation and DIC; H.R. 1427, making minor improvements to DIC; H.R. 1543 and H.R. 1544, providing improved benefits for former prisoners of war; and finally, the Administration's proposal to index compensation and DIC COLA's.

The World War I veterans were highly instrumental in formulating the present G.I. Bill, and we are very interested in the overall care of not only the veterans but their dependents also. We veterans from the First World War came home and after seeing a need for special care for fellow veterans, backed the G.I. Bill unselfishly, without great benefits to ourselves and for which we are not eligible. We do in all humility this day, add our voices in this written testimony for those unable to do it for themselves.

The Veterans of World War I, feel it is essential that former Prisoners of War are to receive the fair and adequate relief to which they are properly entitled, and that after careful review, the impact of this proposal will be thoroughly realized providing additional care for this group of veterans.

Mr. Chairman, in any consideration of an increase in V.A. disability and death compensation payments, it is important to recall the principle upon which these programs were established: Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earnings capacity caused by a service-connected disability. DIC benefits, on the other hand, are intended to provide a measure of financial security to widows

and children in view of the service-related deaths of their husbands and fathers.

Over the years, this Subcommittee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising cost of goods and services. An upward adjustment of V.A. service-connected disability and death compensation through appropriate legislation should be acted upon favorably and swiftly.

The Veterans of World War I would like to go on record as opposing the Administration's proposal to index compensation and DIC COLA's. This concept is very confusing and will undoubtedly prove to be costly to the group which can least afford it: the VETERANS.

Again, we extend the profound gratitude of our Organization in allowing the Veterans of World War I the opportunity to be heard. This country owes much to defenders of Democracy who preserve our treasured freedoms. We MUST not turn our back on any Veteran. We commend the Committee for advancing the many Bills so beneficial to the veterans of all wars, their dependents, and survivors, which have become law in the past.

We thank you for the opportunity of presenting this written testimony.

Winston M. Roche'
National Legislative Director
Veterans of World War I of the U.S.A., Inc.

MICHAEL BILIRAKIS
8TH DISTRICT, FLORIDA

COMMITTEE ON ENERGY AND COMMERCE
ENERGY AND POWER
TRANSPORTATION, TOURISM AND HAZARDOUS MATERIAL
OVERSIGHT AND INVESTIGATION

COMMITTEE ON VETERANS' AFFAIRS
HOSPITALS AND HEALTH CARE
COMPENSATION, PENSION AND INSURANCE

CHAIRMAN, TASK FORCE ON THE ELDERLY
CONGRESSIONAL HUMAN RIGHTS CAUCUS
CONGRESSIONAL CLEARINGHOUSE ON THE FUTURE
ENVIRONMENTAL AND ENERGY STUDY CONFERENCE
TRAVEL AND TOURISM CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515-0909

PLEASE RESPOND TO:

☐ WASHINGTON OFFICE:
1530 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0909
(202) 225-5755

DISTRICT OFFICES:
☐ 1100 CLEVELAND STREET, SUITE 1900
CLEARWATER, FL 33518-6993
(813) 441-3721

☐ 4143 U.S. HIGHWAY 19
NEW PORT RICHEY, FL 33552-4065
(813) 847-1022

April 8, 1987

The Honorable Douglas Applegate
Chairman
Subcommittee on Compensation, Pension and Insurance
337 Cannon
Washington, DC 20515-6338

Dear Doug:

First, let me take this opportunity to say how honored I am to be serving on this Subcommittee under your fine leadership.

I specifically requested a seat on the Compensation, Pension and Insurance panel because I wanted to be involved in preserving the integrity of these programs which are so vital to veterans in Florida and across the nation. I look forward to working with you in this effort.

Doug, I have a particular interest in eliminating the offset between military retirement pay and VA disability compensation and have introduced legislation, H.R. 303, to achieve this. A copy of H.R. 303 is enclosed.

Thus far, 46 Members have joined me as cosponsors of this bill. In addition, the following 15 veterans' and military organizations have endorsed H.R. 303: the American Legion, DAV, VFW, Uniformed Services Disabled Retirees, Military Order of the Purple Heart, NCOA, ROA, Fleet Reserve Association, TREA, Catholic War Veterans, AFSA, NMFA, NAUS, AMVETS and American Retirees Association.

I have included a list of cosponsors, as well as copies of the letters of support I have received from the various organizations, for your review.

Finally, I am sending along a copy of the cost estimate CBO has recently provided on H.R. 303. I realize that the costs of this legislation are significant, but I am, nevertheless, convinced that this inequity must be corrected.

As you know, military retirees are the only group of retirees subject to this offset. I like to use the example of two soldiers who joined the Army together and were wounded in the same battle. Joe left the Army after his four year stint and joined the Department of Agriculture as a civilian employee. Jim stayed on and made a career in the military.

Thirty years later, both men are receiving federal longevity retirement pay based on their careers. Both are also eligible for VA disability compensation as a result of the injuries they sustained while in the Army. However, the difference is that in order to get his compensation, Jim must forfeit an equal amount of his retirement pay, while Joe collects the full amount of both benefits without deduction in either.

Why should the individual who chose a military career be penalized? I cannot agree with opponents of corrective legislation who would call Jim a "double dipper", claiming he would be receiving two benefits based on the same period of federal service.

I have several objections to this line of thinking. First, it seems to me that one benefit is based on longevity in a career, the other on an injury sustained while in the service. There is only a technical minimum length of service requirement for VA disability compensation eligibility.

Second, some retirees subject to this offset have more than enough years of service to qualify for military retirement. Third, Joe in our example can use his four years in the military for civil service retirement credit--thus "receiving two federal benefits based on the same period of service."

I believe there are many facts about this offset, its application and its impact that need to be examined by our Subcommittee. Therefore, I respectfully request that a hearing on H.R. 303 be scheduled.

At the very least, those affected by this offset deserve fair and full consideration of their position by those of us who have jurisdiction over this offset. I am hopeful, of course, that once Members recognize the inequity of present law, they will join me in supporting corrective legislation.

Your attention to my request is deeply appreciated.

Warmest regards.

Sincerely yours,

Mike

Michael Bilirakis
Member of Congress

MB/lbs
Enclosures

COSPONSORS OF H.R. 303

April8, 1987

1. Bennett
2. Lowry of Washington
3. St. Germain
4. Fuster
5. Murphy
6. Lagomarsino
7. Lukens, Buz
8. Mfume
9. Hayes, Charles
10. Young, Bill
11. Fazio
12. Bentley
13. Towns
14. Roe
15. Garcia
16. Vucanovich
17. Watkins
18. Pepper
19. Wortley
20. DeWine
21. Dyson
22. Emerson
23. Fish
24. Martinez
25. Kaptur
26. Saxton
27. Porter
28. Neilson
29. Lujan
30. Weldon
31. Gingrich
32. Johnson, Tim
33. Young, Don
34. Hall, Tony
35. Lewis, Tom
36. Mica
37. Sunia
38. Jeffords
39. McDade
40. Rahall
41. Dornan
42. Anderson
43. Frank
44. Shaw
45. Skeen
46. Berman

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

MAR 2 3 1987

Honorable Michael Bilirakis
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman:

The Congressional Budget Office has prepared the attached cost estimate for H.R. 303, a bill to eliminate the offset between Veterans Administration disability compensation and military retirement benefits, as it was introduced in the House of Representatives on January 6, 1987.

The estimate represents the direct costs of the legislation, that is, the costs that are unambiguously associated with the bill. CBO cannot estimate the amounts returning to the Treasury in the form of revenues, because they result from secondary effects of the legislation. Secondary effects cover a range of activities that may have offsetting budgetary impacts.

Should you so desire, we would be pleased to provide further details on the attached cost estimate.

With best wishes,

Sincerely,

Edward M. Gramlich
Acting Director

Congressional Budget Office

Cost Estimate

MAR 2 3 1987

1. BILL NUMBER: H.R. 303

2. BILL TITLE:

To amend section 3104 of title 38, United States Code, to permit certain service-disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

3. BILL STATUS:

As introduced in the House of Representatives on January 6, 1987.

4. BILL PURPOSE:

This bill eliminates the offset between military retirement benefits and Veterans Administration (VA) compensation for veterans with service-connected disabilities who are also retired members of the Armed Forces.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Function 050					
Estimated Authorization	920	950	980	1,020	1,060
Estimated Outlays	910	950	980	1,020	1,060
Function 600					
Estimated Budget Authority	2,090	2,270	2,440	2,630	2,830
Estimated Outlays	950	1,010	1,070	1,140	1,210
Function 700					
Estimated Budget Authority	17	17	17	17	17
Estimated Outlays	16	17	17	17	17
Function 950					
Estimated Budget Authority	-910	-950	-980	-1,020	-1,060
Estimated Outlays	-910	-950	-980	-1,020	-1,060
Bill Total					
Estimated BA/Auth.	2,117	2,287	2,457	2,647	2,847
Estimated Outlays	966	1,027	1,087	1,157	1,227

Basis for Estimate

Under current law, servicemembers who retired with at least 20 years of service and who have some service-related disability are not permitted to receive a full annuity from the Department of Defense (DoD) in addition to disability compensation from the Veterans Administration (VA). They must waive either their entire disability compensation benefit or a portion of their military retirement equal to the amount of the disability compensation they receive.

This bill would permit such veterans to receive the full amount of both benefits to which they are entitled concurrently. This estimate assumes enactment before the beginning of fiscal year 1988, an effective date of October 1, 1987 on which retired servicemembers can begin to receive the dual benefits, and that retired servicemembers will not be eligible for retroactive payment of benefits waived prior to that date.

Functions 050, 600, and 950

According to data from the actuaries within the DoD, as of September 30, 1986 there were approximately 294,000 former servicemembers who have retired with at least 20 years of service and who have waived all or part of their military retirement in order to receive disability compensation benefits. The total value in 1986 of the retirement benefits being waived was about $880 million. To estimate future year costs, this total was increased by 2 percent a year to reflect the historical rate of growth in the value of benefits paid to military retirees. The estimate was also increased for anticipated cost-of-living adjustments.

Under the accrual accounting system, this bill would increase outlays from the military retirement trust fund in income security (budget function 600) by an average of $1.1 billion each year from 1988 to 1992. The yearly contributions to the fund (budget authority) would also increase. There are two sources of this budget authority: a payment based on liabilities accruing after the bill's enactment date and a payment based upon the unfunded liability due to benefits accrued prior to enactment. The former is reflected in this cost estimate through a change to the normal cost percentage--a factor relating current average costs to future average benefits. The outlay change in this payment from the DoD (budget function 051) is offset in the undistributed offsetting receipts function (budget function 950). However, there is a net budget authority gain in the military retirement trust fund averaging about $1 billion a year over the five-year period.

The payment based upon the unfunded liability of the trust fund will also increase. The CBO estimates that the unfunded liability of the military retirement trust fund would be larger by approximately five percent (or $30 billion) as a result of this legislation. This amount

would be amortized over a period of thirty years under the rules of the trust fund. The increased payment is both made and offset in budget function 050, but increases the budget authority in the trust fund by over $1 billion each year of the estimate.

Function 700

The cost in the veterans benefits and services function (function 700) is estimated to be approximately $17 million in each of the next five years. Neither DoD nor the VA has any information regarding those veterans who have waived their disability compensation benefits in order to receive the full amount of their military retirement. However, since disability compensation benefits are not taxable, it is expected that the number of veterans who forgo these benefits in favor of taxable military retirement benefits is not large. This estimate assumes that the number of veterans waiving compensation benefits is equal to 10 percent of the veterans who receive compensation for disabilities rated less than 30 percent disabling and who waive some portion of their retirement benefits. The cost in budget function 700 was estimated using a weighted average of compensation benefits payable to these veterans.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS: None.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO COST ESTIMATE:

An estimate for H.R. 867 (identical legislation) was prepared August 12, 1985.

9. ESTIMATE PREPARED BY: Barbara Hollinshead
226-2840

Nina Kathleen Shepherd
226-2820

10. ESTIMATE APPROVED BY:

C.G. Nuckols
for James L. Blum
Assistant Director
for Budget Analysis

The American Legion
For God and Country

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N.W. ★ WASHINGTON, D.C. 20006 ★
(202) 861-2700 ★

December 5, 1986

Honorable Michael Bilirakis
U.S. House of Representatives
1130 Longworth House Office Building
Washington, DC 20515

Dear Mr. Bilirakis:

We have just received your December 1 letter which seeks information regarding our position on H.R. 867, your bill introduced in the 99th Congress addressing concurrent receipt of disability compensation and military retired pay.

Our organization agrees with the intent of this legislation, and you may state that agreement during the 100th Congress in the event that you intend to offer a similar measure in 1987 or 1988. We would also be interested in any recent data you may have which offers an estimate of the cost of your legislation. It does appear as though cost is the principal point of opposition.

Mr. Bilirakis, we welcome any advice or guidance that you may wish to offer as we pursue this common objective.

Sincerely,

E. Philip Riggin, Director
National Legislative Commission

Motto: "If I cannot speak good of my comrade, I will not speak ill of him."

DISABLED AMERICAN VETERANS

NATIONAL SERVICE and LEGISLATIVE HEADQUARTERS
807 MAINE AVENUE, S.W.
WASHINGTON, D.C. 20024
(202) 554-3501

December 15, 1986

Honorable Michael Bilirakis
U.S. House of Representatives
1130 Longworth House Office Building
Washington, DC 20515

Dear Congressman Bilirakis:

Thank you for your letter of December 1, 1986, advising me of your intent to reintroduce legislation to provide for the concurrent receipt of VA disability compensation and military retirement pay.

I am pleased to inform you that the DAV, through a mandate approved by its National Convention delegates, has taken a position on this issue. While conceding that the dual receipt of VA disability compensation and military disability retirement pay would be a duplication of federal benefits, we do support the concurrent receipt of VA compensation and military longevity retirement pay. A measure to accomplish this goal is contained in our current Annual Legislative Program.

Your bill (H.R. 867), which you introduced in the 99th Congress, was fully supported by the DAV and we do urge you to introduce similar legislation in the upcoming 100th Congress.

In closing, I wish to thank you for soliciting our views and for taking a leadership role on this most important issue.

Sincerely,

John F. Heilman

JOHN F. HEILMAN
National Legislative Director

JFH:am

VETERANS OF FOREIGN WARS OF THE UNITED STATES

OFFICE OF THE DIRECTOR

December 19, 1986

The Honorable Michael Bilirakis
United States House of Representatives
Washington, DC 20515

Dear Mr. Bilirakis:

I recently received your letter requesting the VFW's position on the military retiree/VA compensation offset. The VFW acknowledges your stated position, recognizes your dedication to all veterans, and commends you for your efforts.

Enclosed are copies of VFW Resolution Nos. 612 and 712. These resolutions were passed by the voting delegates to our most recent National Convention held in August of 1986. As you can see, the Veterans of Foreign Wars stands firmly in opposition to the offset of military retirement income.

Congressman, the VFW would fully support the reintroduction of legislation (similar to H.R. 867) that would correct this obvious injustice. We are prepared to testify in favor of your bill and will welcome the opportunity to further demonstrate our support.

One additional thought, has your office ever considered that the Department of Defense realizes a windfall profit each time a military retiree elects to receive VA compensation? It is our understanding that DOD benefits from the offset to the tune of approximately $2 billion a year. It would be interesting to know where this $2 billion is utilized. We could offer some suggested uses.

Thank you for your interest and be assured that the VFW is always ready to cooperate in any effort to improve the future of the veterans we serve. With best wishes and kind regards, I am

Sincerely yours,

James N. Magill

JAMES N. MAGILL, Director
National Legislative Service

Enclosures

Resolution No. 612

WAIVER OF EARNED MILITARY RETIRED PAY

WHEREAS, an individual who has completed the prescribed period of years may retire from the Armed Forces and receive retired pay based on such length of service; and

WHEREAS, this amount is determined by laws and regulations in effect at time of retirement; and

WHEREAS, such individuals are prohibited by Section 3104(a)(1) and 3105, Title 38 U.S. Code from drawing compensation and full retirement simultaneously based on the same service; and

WHEREAS, veterans who are in receipt of civil service retirement are not required to waive a portion of their pay in order to receive compensation for their service connected disabilities; now, therefore

BE IT RESOLVED, by the 87th National Convention of the Veterans of Foreign Wars of the United States, that we pursue legislation to repeal the requirement of waiving an equal amount of retired pay in order to receive compensation for service connected disabilities incurred during military service.

Adopted by the 87th National Convention of the Veterans of Foreign Wars of the United States, held in Minneapolis, Minnesota, August 15-22, 1986.

Resolution No. 612

UNIFORMED SERVICES DISABLED RETIREES

5909 Alta Monte NE - Albuquerque, NM 87110
Phone: 505 881-4568;892-8817
Stephen Wolonsky, President Al (Bud) Means, Secretary

22 December 1986

Dear Representative Bilirakis:

Please add Uniformed Services Disabled Retirees (USDR) to the list of veterans organizations who support your House Bill to amend Title 38, USC to permit concurrent receipt of military retired pay and Veterans Administration Compensation without a waiver from either.

I know that H.R. 867 died in Congress during the 99th Session, but we support your introduction of the Bill in the 100th Congress. Please let me know the Bill number in order that I may disseminate the information to USDR's membership.

Thank you for all your assistance on behalf of the service-connected disabled military retirees who are also veterans of this great Nation.

Sincerely,

Stephen Wolonsky
President, USDR

PS: It is a great shame to force a particular minute segment of our nation's veterans be made the "goat" in reducing the budget deficit. If the service-connected disabled career military veterans cannot receive concurrent receipt of retired pay and veterans compensation without waiver of either, than NO sc disabled veteran should receive veterans compensation. Equality is the basic strength of The United States.

MILITARY ORDER OF THE PURPLE HEART

CHARTERED BY CONGRESS

NATIONAL HEADQUARTERS
5413-B BACKLICK ROAD
SPRINGFIELD, VA 22151-3960
(703) 642-5360 XXXXXXXX
FTS 756-3539

OFFICE OF: National Service Director

January 7, 1987

Honorable Michael Bilirakis
U.S. House of Representatives
1130 Longworth House Office Building
Washington, DC 20515

Dear Congressman Bilirakis:

We wish to thank you for your intent to reintroduce legislation to provide for the concurrent receipt of VA disability compensation and military retirement pay (longevity).

We are pleased to inform you that the Purple Heart, through a mandate approved by its National Convention delegates, has taken a position on this issue. We do support the concurrent receipt of VA disability compensation and military longevity retirement pay. The achievement of this goal is in our current Annual Legislative Program.

Your bill (H.R. 867), which you introduced in the 99th Congress, was fully supported by the Purple Heart and we do encourage you to introduce similar legislation in the 100th Congress.

In closing, I wish to thank you for taking this leadership role on a very important issue. Your support of justifiable veterans' programs is greatly appreciated.

Yours in Patriotism,

Richard J. Gallant

Richard J. Gallant
National Service Director

RJG/bea
cc: G.V. (Sonny) Montgomery,
Chairman, Comm. on Veterans' Affairs

Committee Counsels: Mack Fleming
Rufus Wilson

NATIONAL CAPITAL OFFICE

NCOA®

NON COMMISSIONED
OFFICERS ASSOCIATION

225 North Washington Street • Alexandria, Virginia 22314 • (703) 549-0311

December 10, 1986

The Honorable Mike Bilirakis
U.S. House of Representatives
1130 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Bilirakis Mike

The Non Commissioned Officers Association has been a long time supporter of legislation which would allow concurrent receipt of veterans disability compensation and non-disability military retired pay. In 1974 a representative of NCOA testified before the House Veterans Affairs Committee in support of similar legislation to your bill H.R. 867. The Association has restated its support for this proposition in many forums and on many occasions since. And, during its most recent convention, NCOA members renewed their support by adopting a resolution on the subject which states:

> "NCOA, hereby, strongly endorses legislation to allow the concurrent receipt of military non-disability retired pay and veterans disability compensation benefits. Non-disability retired pay is awarded on the basis of years served while veterans disability compensation is awarded as a result of physical or mental disability incurred or aggravated by service. Since the purpose of each payment is different, NCOA cannot support the offset of either."

Accordingly, NCOA is most pleased to endorse your bill and looks forward to assisting you in gaining its passage. Your fellow members of NCOA appreciate your efforts on this issue.

Sincerely,

Dick

Richard W. Johnson
Director of Legislation

RWJ/car

Reserve Officers Association of the United States

THE PROFESSIONAL ASSOCIATION REPRESENTING ALL MILITARY OFFICERS
ARMY ★ NAVY ★ AIR FORCE ★ MARINE CORPS ★ COAST GUARD ★ PUBLIC HEALTH SERVICE ★ NOAA

18 December 1986

The Honorable Michael Bilirakis
U. S. House of Representatives
Washington, DC 20515-0909

Dear Mr. Bilirakis:

Thank you for your letter of 1 December 1986, regarding your Bill, HR 867, which would permit a military retiree to receive VA disability compensation without a retired pay offset.

The Reserve Officers Association strongly supports your legislative initiative and I am enclosing a copy of the mandate adopted at our last National Convention on this subject.

We are pleased to note that you plan to reintroduce this legislation in the 100th Congress and I will be happy to bring it to the attention of our membership at that time.

Thank you for your efforts on behalf of our Nations Defense and the men and women who protect our freedom.

Sincerely,

Evan

Evan L. Hultman
Major General, AUS (Ret.)
Executive Director

ELH/jb

Enclosure

Resolution No. 86-33
(Veterans)

RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Concurrent Receipt of VA Compensation and Earned Retired Pay

WHEREAS, there is a basic inequity in the field of military retired pay because of the continuing practice of deducting VA compensation from such retired pay; and

WHEREAS, non-military federal retirees may receive their VA compensation in full without deduction from other income and in justice, it would seem that those who have given a large measure of their lives to the military service should receive the same consideration and treatment.

NOW, THEREFORE, BE IT RESOLVED that the Reserve Officers Association of the United States, chartered by Congress, urge that steps be taken to provide legislation that will correct this inequity to the end that VA compensation and military earned retired pay be paid concurrently where both have been independently justified by the service and the disabilities of the individual military retiree.

This renews expiring Resolution No. 83-35--

Attest: Evan L. Hultman
Evan L. Hultman
Major General, AUS (Ret.)
Executive Director

FLEET RESERVE ASSOCIATION

Representing All Enlisted Personnel of the J S
U.S. NAVY ☆ U.S. MARINE CORPS ☆ U.S. COAST GUARD

1303 New Hampshire Avenue, N.W., Washington, D.C. 20036 ▪ (202) 785-2768

16 January 1987

The Honorable Michael Bilirakis
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Bilirakis:

Your prompt reply of 8 January to my letter of 29 December re: H.R. 303 received today. I sincerely thank you. I am departing on a business trip to Florida and hasten to reply before I leave town. I will be gone for a week and will contact your office by telephone when I return so that I may meet with your staff member who handles this issue.

Do not misunderstand my frustration and fear that the Fleet Reserve Association is ready to surrender. Your encouraging pledge of support has given us that whiff of hope and I pledge to you our wholehearted and complete support of H.R. 303 and resolving the inequity of concurrent receipt of both military retired pay and veteran's disability compensation. We know many of the players in this endeavor and have found them all to be effective co-workers on other issues. I am sure we can marshall the support of the member-Associations in the Council of Military Organizations (COMO).

As our first effort on behalf of H.R. 303 I am informing them of this exchange of correspondence in preparation of discussing the matter at the monthly COMO meeting. For your information a roster of COMO is attached.

With sincere good wishes, I remain in

Loyalty, Protection and Service,

Robert W. Nolan

ROBERT W. NOLAN
Natinoal Executive Secretary

RWN:plk
Encl:

cc: COMO
USDR
Jeffrey Glosser

FLEET RESERVE ASSOCIATION

Representing All Enlisted Personnel of the
U.S. NAVY ☆ U.S. MARINE CORPS ☆ U.S. COAST GUARD

1303 New Hampshire Avenue, N.W., Washington, D.C. 20036 • (202) 785-2768

29 December 1986

The Honorable Michael Bilirakis
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Bilirakis:

Thank you for yours of 1 December regarding H.R. 867 addressed to my legislative assistant, Mr. Jack Yelverton. As you can appreciate, the FRA, an organization of 160,000 career enlisted personnel of our Sea Services, is vitally interested in the correction of the current, long standing, gross inequity governing the receipt of military retired pay and veterans disability compensation concurrently.

Mr. Bilirakis, I have been employed by the FRA for 24 years and it was not until I retired from the Navy and came to work for the FRA that I learned of this inequity. I vowed that I would not rest until this clear inequity was corrected. For twelve U.S. Congresses we have seen corrective legislation die in Committee for lack of support.

Two years ago a group, Uniformed Services Disability Retirees, initiated a claim in the U.S. Courts. I know the USDR Attorney, Mr. Jeffrey M. Glosser of Washington, DC. FRA cooperated with him by assisting him in his research, etc. Unfortunately, the case was lost because of the cost a win would initiate. USDR is now pursuing the course of appeals.

Now, however, the loss in court gives our opponents real ammunition to oppose us. Ironically, I feel that the national veteran organizations not only oppose us on this issue but quietly work against us behind closed doors. Having pursued both the legislative and legal paths to correct the inequity, I am at a loss what future action to take. I am determined to not resign myself to permitting the current law to remain unchallenged but I am a pragmatist and recognize that without some positive assistance from the House Veterans Affairs Committee we are doomed in the 100th U.S. Congress even before you sponsor your new bill.

Before I commit the FRA to yet another year of token sponsorship, I would like to tell my Shipmates that there is a real chance of receiving passage of the measure in the House during the first session and then we will go after the Senate in the second session of the 100th U.S. Congress.

Can you assure me of such concerted action on the part of your colleagues on the Veterans Affairs Committee? I am anxious to participate in a discussion of your legislation with the Committee's leadership and staff.

I await your response. With every good wish for your continuing success in the 100th U.S. Congress, I remain in

Loyalty, Protection and Service,

Robert W. Nolan

ROBERT W. NOLAN
National Executive Secretary

RWN:plk

cc: Chairman Montgomery
Cmte Counsels Fleming & Wilson

The Retired Enlisted Association
P.O Box 50584, Washington, D.C. 20004 • Telephone 301-899-3012

FOUNDED 1963

January 28, 1987

The Honorable Michael Bilirakis
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Bilirakis:

Bob Nolan, Executive Secretary, Fleet Reserve Association recently furnished me copies of his and your correspondence regarding H.R. 303.

On behalf of TREA, I sincerely thank you for again sponsoring this corrective legislation to permit concurrent receipt of military retired pay and Veterans Administration compensation for disability without deduction in either.

Enclosed is a copy of our 1987 Legislative Resolutions. Resolution No. 5 addresses this issue, as it has in our past years' resolutions

Consequently, we can assure you that you have our complete support and we will work closely with FRA and other military associations in this endeavor.

We look forward to working with you on this much needed legislation.

Sincerely,

Bill Haselton
WILLIAM E. HASELTON
Legislative Representative

WEH/ry

cc: Robert Nolan

Enclosure: Legislative Resolutions

Catholic War Veterans
of the United States of America, Inc.

National Headquarters
419 North Lee Street
Alexandria, Virginia 22314
703-549-3622

4 February 1987

Honorable Michael Bilirakis
Committee on Veterans' Affairs
House of Representatives
1130 LHOB
Washington, DC 20515-0909

Dear Congressman Bilirakis:

I am replying to your letter to Ray Williams our National Service Officer, requesting our views on your proposed legislation to eliminate the offset presently imposed on military retirees who are also eligible for Veterans Administration disability compensation.

This subject was brought before our National Board of Officers at our recently held National Board Meeting for their consideration. It was the unanimous view of the Board that military personnel who are retired by reason of longevity should not be required to forfeit a portion of their retired pay in order to receive VA compensation for service-connected disability. The Board was of the opinion that a military retiree should not be compensated twice for the same disability, but that in the present interpretation of the law, military retirees are being subject to an offset which no other group of retiree now face.

We feel that military retired pay is a benefit granted by Congress for long and faithful service. If a retiree is found to have a service-connected disability after retirement and which is of sufficient degree to be ratable and compensable by the VA than it would seem proper and equitable to receive such compensation in addition to military retired pay.

For this reason, we wish to state that we favor your proposal to again introduce in the 100th Congress legislation similar to HR 867 of the last Congress and will act to support this legislation.

Sincerely,

Edward J. Kochanski

Edward J. Kochanski
National Commander

CC: Raymond J. Williams - National Service Officer
William J. Gill - Executive Director

Congressionally Chartered 17 August 1984

Air Force Sergeants Association

International Headquarters, P.O. Box 31050, Temple Hills, MD 20748 • Phone: (301) 899-3500

February 11, 1987

Honorable Michael Bilirakis
1130 Longworth House Office Building
Washington D.C. 20515-0909

Dear Representative Bilirakis,

The Air Force Sergeants Association supports your recently introduced legislation, H.R. 303, that would eliminate the discriminatory offset between military retirement pay and VA disability compensation.

We thank you for allowing us the opportunity to support this legislation to bring equity to those who were disabled during their military service career.

If we can be of assistance to further the passage of H.R. 303, please advise.

Sincerely,

RUDY I. CLARK
Director, Military and
Government Relations

NLF:dmo

NMFA

The National Military Family Association

Anna C. Chennault
Chairman and Founder
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February 16, 1987

The Honorable Michael Bilirakis
House of Representatives
1130 Longworth House Office Building
Washington, DC 20515-0909

Dear Mr. Bilirakis:

The National Military Family Association supports your initiative to eliminate the offset between military retirement pay and VA disability compensation.

We appreciate your solicitation of our views.

Sincerely yours,

Sydney Tally Hickey

Sydney Tally Hickey
Director
Government Relations

2666 Military Road, Arlington, Virginia 22207-5118 (703) 841-0462 (703) 841-0121

NATIONAL ASSOCIATION FOR UNIFORMED SERVICES
5535 HEMPSTEAD WAY
SPRINGFIELD, VIRGINIA 22151-4094
TEL. (703) 750-1342

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*Active Duty, other personnel are military retiree

February 20, 1987

The Honorable Michael Bilirakis
1130 Longworth House Office Building
Washington, DC 20515-0909

Dear Mr. Bilirakis:

On behalf of our membership, we very much appreciate your effort to bring equity to disabled military personnel who have retired by introducing H.R. 303. One of our longstanding legislative objectives has been such legislation.

As a first step we will bring it to the attention of our members in the March/April issue of the Uniformed Services Journal and look forward to working out a strategy with you and the other associations on how best to proceed.

Sincerely,

Charles C Partridge

Charles C. Partridge
Colonel, USA (Ret)
Legislative Counsel

CCP:ms

AMVETS

National Headquarters
4647 Forbes Boulevard, Lanham, Maryland 20706
(301) 459-9600

JOSEPH T. PIENING
NATIONAL
COMMANDER

March 16, 1987

The Honorable Michael Bilirakis
U. S. House of Representatives
1130 Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Bilirakis:

For many years now AMVETS has placed a high priority on the elimination of the grossly unfair and essentially anti-military offset provisions of 38 U.S.C., Sections 3104 and 3105, which require military retirees to forfeit a portion of their longevity retired pay equivalent to any VA compensation which they may be receiving. Only those who have devoted their lives to military service are so affected. Career civil servants and persons employed in the private sector are entitled to receive all earned retired pay and VA compensation to which they may also be entitled as a result of a service-connected disability.

Your introduction of H.R. 303 to remove this insulting stigmatizing of military careerists demonstrates again your courageous patriotic concern, not only for military retirees and their families, but for the overriding importance of this nation's national defense posture.

AMVETS, consistent with Resolution Number 14, unanimously adopted by our 42nd National Convention at Cincinnati, (copy enclosed) enthusiastically endorses enactment of H.R. 303.

Sincerely,

Joseph T. Piening

JOSEPH T. PIENING
National Commander

Encl: (1)

JTP/aimc

CC: The Honorable Lawton Chiles
The Honorable Alan Cranston
The Honorable Frank H. Murkowski
The Honorable G. V. (Sonny) Montgomery
The Honorable Edward P. Boland
The Honorable Gerald B. Solomon
The Honorable Jamie L. Whitten

American Retirees Association
7564 Trade Street, San Diego, California, 92121-9911

17 March 1987

Representative Bilirakis
House of Representatives
Washington, D.C. 20515

Honorable Representative Bilirakis:

Your HR 303 is most welcome. ARA and all of the 3.5 million active and retired men and women support you and the HR 303 bill.

Why can't all these people collect both retired pay and V.A compensation, the same as all the rest...civil servants, union members, social security recipients etc.? Gross discrimination.

You are doing a great service. Please keep us on your mailing list. We'll give HR 303 and you some publicity in our newsletter.

Sincerely,

Vic Wintriss
Chairman

1 enclosure
John Beach Ltr.

cc John Beach
Steve Wolinsky USDR